# FINAL REPORT AND RECOMMENDATIONS OF THE PLANNING ACT REVIEW COMMITTEE

NOVA SCOTIA

NOVEMBER 1981

HT 395
C3 N6
F5
1981

## - FOREWORD -

I am pleased to present the final report of the Planning Act Review Committee. The Committee in the course of its work has held 28 public meetings throughout the Province and received more than 128 written submissions. In November of 1980 the Committee put out an Interim Report in the form of a Green Paper to which 55 responses were received.

The Planning Act Review Committee has always taken the position that while the province should, after wide consultation, provide policy guidance to the municipalities and the public, the place to plan our communities is at the local level. The Planning Act must clearly delegate this role to municipal government.

To be successful local planning must have two important components: a clear sense of policy direction from the province and recognition that the involvement of the public in the planning process is necessary and constructive.

In many ways the Planning Act can only lay down legislative minimums, this is especially true of public participation. A comprehensive public participation program would go well beyond these minimums. To those frustrated municipal councillors who asked us "how can you legislate public participation?", we can only reply: you can't. But the Act must provide the opportunity to participate whether or not it is taken up by the public.

There was some criticism of the Committee's Interim Report that in fact the province, under the report's recommendations, had lost all power to protect its interest in respect of planning. The Committee is still of the opinion that the primary focus of provincial planning should be to provide policy guidance to the municipalities and the public. However, we acknowledge that there may be instances where a municipality has no interest in planning and where some form of land use regulations should be made available to the province for the successful implementation of a provincial land use policy of significance to the overall well-being of Nova Scotia. In agreement with this position we have now included recommendations to address this contingency while not detracting from the main thrust.

Although the report is of necessity fairly detailed, we have endeavored to keep the main text in plain English. The recommendations, however, are more formal and specific in order to make them as clear as possible to those who may be called upon to draft legislation from them. Where significant departures from the Green Paper have been made a footnote has been included.

I would like to take this opportunity to thank the members of the Committee, all busy people, who have given so generously of their time and expertise throughout this exercise. Also to our two staff members Gerrie Masters and Janet Willwerth, who as well as carrying the significant loads of their normal work have provided us with the professional expertise without which we would never have found our way.

Brenda Shannon.

Brenda Shannon
Chairman, Planning Act Review Committee

# TABLE OF CONTENTS


| | PAGE |
|---|---|
| STATEMENT OF PURPOSE | 1 |
| PROVINCIAL PLANNING | 4 |
| REGIONAL PLANNING | 8 |
| SPECIAL DEVELOPMENT CONTROL AREA | 8 |
| MUNICIPAL PLANNING | 9 |
| PLANNING ADVISORY COMMITTEES | 17 |
| ZONING BY-LAWS | 18 |
| CONTRACT ZONING & COMPREHENSIVE DEVELOPMENT DISTRICTS | 24 |
| INJURIOUS AFFECTION | 26 |
| LANDS FOR PUBLIC PURPOSES | 27 |
| DEMOLITION | 28 |
| NON-CONFORMING USE | 29 |
| INTER-MUNICIPAL PLANNING | 31 |
| DISTRICT PLANNING COMMISSIONS | 33 |
| SUBDIVISION | 35 |
| PRIVATE ROADS | 42 |
| PLANNING APPEALS | 43 |
| PUBLIC PARTICIPATION AND INFORMATION | 47 |
| INTER-GOVERNMENTAL ISSUES | 55 |
| ADMINISTRATIVE AMENDMENTS | 58 |

## STATEMENT OF PURPOSE

A statement of purpose would help governments and people to better understand the planning principles inherent in the Planning Act and the responsibilities of the respective participants in the planning process. It would also prove useful in evaluating the performance of the Act.

The Province and its municipalities have adopted a 14-point Statement of Objectives as the criterion against which to evaluate all further proposals with respect to provincial-municipal relations.

These objectives are:

1. To create communities which provide people with the maximum opportunity for self-fulfillment.

2. To ensure that a variety of settlement patterns and community types are reasonably available to Nova Scotians.

3. To conserve our resource base, particularly agricultural, fisheries, forestry, recreational, tourism and mining lands, and to minimize conflicts between types of land use.

4. To ensure clean water supplies for Nova Scotia, in part by protecting watersheds.

5. To preserve and develop vital urban centres with a wide range of services, including social, educational, commercial, cultural, governmental and recreational amenities.

6. To assist rural Nova Scotia in its traditionally rural economic and social pursuits and in its health and safety.

7. To deliver services to the communities of Nova Scotia based upon their needs, taking into account the differences in population, environmental circumstances, and the type of community.

8. To plan, provide and finance municipal services in a way which is generally consistent with and complementary to other provincial and municipal policies and programs.

9. To achieve an equitable, effective and fiscally sound sytem of municipal government to deliver community services.

10. To make more effective use of user-related means of financing services.

11. To establish procedures to evaluate the land use impacts and long term costs and benefits of new capital projects before they are undertaken.

12. To rationalize expenditures by governments and their agencies. Only those services that taxpayers can afford to pay for should be provided.

13. To provide for an equitable sharing of the necessary costs of achieving these objectives by the various levels of government.

14. To preserve and develop the local autonomy and self-determination that is necessary to ensure a vital, continuing and responsible system of municipal government in Nova Scotia.

As one means of achieving these objectives, it is essential that a new Planning Act clearly define and delegate authority for planning between the two governments and establish a just and equitable process for meeting these responsibilities.

PLANNING ACT RECOMMENDATIONS:

1. That the Planning Act contain the following statement of purpose.

   "It shall be the purpose of the Planning Act to:

   - require the provincial government to identify and protect its interest in the use, development, and subdivision of land through the adoption and administration of provincial land use policies and regulations.

   - enable municipalites to assume the primary authority for planning within their respective jurisdictions through the adoption and administration of municipal planning strategies, zoning by-laws and related methods of land use control and subdivison by-laws, consistent with the policies and regulations adopted by the provincial government under this Act.

   - establish procedures for inter-municipal planning.

   - provide for the regulation of non-conforming uses and buildings.

   - provide for the regulation of all subdivision.

   - establish a consultative process which will ensure the right of the public:

     - to have access to information on which decisions under the Act may be based.
     - to be notified and heard before decisions are made.
     - to know the reasons for decisions that are made.

— provide for the fair and efficient administration of regulations and by-laws pursuant to this Act to ensure that the rights of individuals are not infringed upon except to the extent that is necessary for the greater public interest.

— establish a system of appeals."

## PROVINCIAL PLANNING

Provincial planning should clarify and advance the provincial government's interest in the use and development of land in Nova Scotia. It should also be supportive of, and conducive to improving the ability of municipal governments to deal effectively with planning issues within their respective communities. If local initiatives are to have any real impact there must be an accompanying provincial commitment to long range planning and resource management.

The municipalities are looking for provincial policy direction but it is not coming forward in regional plans as anticipated by the present Planning Act, nor is it being initiated outside of the Act through the adoption of province-wide or regional land use policies.

There is a need to provide a means whereby statements of provincial land use policy can be developed through a process involving affected provincial interests, municipal government and the public. In addition to identifying and securing the provincial government's interest in the use and development of land in Nova Scotia, province-wide land use policies would greatly assist municipal planning, especially in the rural municipalities where many of the most difficult planning problems transcend municipal boundaries and are beyond the ability of any single municipality to resolve.

To some extent the provincial government has advanced toward this goal through the establishment of Policy Board at the elected level and the creation by order-in-council of the Deputy Minister's Committee on Provincial Land Use Policy as the forum for interdepartmental co-ordination and the identification and discussion of provincially significant land use issues. However, to result in any tangible benefits outside of the provincial government, the municipalities and the public must also be given the opportunity to be part of this process. Consultation will become increasingly important as the provincial government moves from the identification of issues into the development and implementation of policy.

It must also be recognized that the provincial government's policies with respect to land use planning and land management affect and are affected by a variety of government programs ranging from land taxation practices to the management of Crown lands. At present these programs are the responsibility of a number of departments and agencies. The provincial government needs to develop the capability for co-ordinating not only the various interests affecting the use and development of land but also for co-ordinating the administration of resulting programs within government.

### PLANNING ACT RECOMMENDATIONS:

1. That the Planning Act require the provincial government (Cabinet) to adopt provincial land use policies with respect to:

    (a) The use, protection and management of land and water resources in the Province including:

    - agricultural land
    - forested areas
    - mineral deposits
    - sand and gravel deposits
    - recreation areas
    - Crown land

- natural and wildlife areas
- watershed areas and aquifer recharge areas
- coastal areas including estuaries, beaches and salt marshes
- inland water bodies

(b) The preservation, protection and enhancement of areas of land, buildings and structures by reason of their historical, architectural, environment or scenic significance.

(c) The management of energy resources and related activities, including the location of supporting infrastructure and facilities.

(d) The provision of housing and land for residential development.

(e) Industrial, commercial and institutional development, including the identification of priority areas for their location.

(f) The general location and development of major utility, communication and transportation systems.

(g) The development of educational, cultural, recreational, health, and other social facilities.

(h) Such other matters as provincial government (Cabinet) considers necessary.

2. That the Planning Act establish an inter-departmental committee for the purpose of advising and assisting the provincial government (Cabinet) in the formulation of provincial land use policies.

3. That the Planning Act require that the provincial government (Cabinet) provide municipalities who may be affected by the adoption of a proposed provincial land use policy with the opportunity to examine, be informed on and comment on the proposed policy.

4. That the Planning Act require that the provincial government (Cabinet) provide opportunity for the public to examine, be informed on and comment on proposed provincial land use policies.

5. That the Planning Act provide for the publication and circulation of adopted provincial land use policies.

6. That the Planning Act delegate responsibility for informing and consulting with affected municipalities and the public about proposed provincial land use policies to the Minister of Municipal Affairs.

7. That the Planning Act permit the provincial government, where no municipal planning strategy or zoning by-law is in effect, and subject to the same consultative procedures as must precede the adoption of a provincial land use policy, to establish such provincial land use regulations as may be necessary to implement the policy.*

8. That the Planning Act require the Minister of Municipal Affairs to file copies of provincial land use policies and any accompanying regulations in the Registry of Deeds for each registration district affected by the policy.

9. That the Planning Act require the Minister to provide copies of each provincial land use policy and any accompanying regulations to be placed in the offices of each municpality affected by the policy.

10. That the Planning Act establish procedures for reviewing, amending and repealing provincial land use policies and regulations in consultation with affected municipalities and the public consistent with procedures for the adoption of same.

11. That the Planning Act provide that where, in the opinion of the Minister of Municipal Affairs, a municipal planning strategy or zoning by-law is in conflict with an adopted statement of provincial land use policy that covers the same area, the Minister shall advise the council of the particulars of the conflict and shall invite the municipality to submit proposals for the resolution of the conflict within a set period of time (not less than 90 days).

12. That the Planning Act provide where a municipality fails to submit proposals to resolve the conflict in the time specified by the Minister, or where after consultation with the Minister on such proposals, the conflict cannot be resolved that the Minister may request the municipality to amend its strategy and by-law to conform to the provincial land use policy.

13. That the Planning Act enable the Minister, where a council fails to amend its strategy and by-law, to make such amendments to the strategy and by-law as would be necessary to make them consistent with the provincial land use policy.

---

*Recommendations 7 - 20 inclusive reflect responses to the Interim Report which were critical of the Committee's failure to specifically address the matter of provincial land use controls. The primary focus of provincial planning should be to provide policy guidance to the municipalities and the public. However, PARC acknowledges that there may be instances where some form of land use regulation is essential to the successful implementation of a provincial land use policy. This is particularly true for fragile or limited resource lands which are of significance to the overall economic growth of the Province.

These new recommendations clarify that in the absence of local planning, the Province after consulting the affected municipality and the public may establish provincially administered land use regulations for the purpose of realizing a provincial land use policy adopted under the Planning Act. The recommendations also reflect the Committee's opinion that while the resolution of differences between provincial policies and stated local objectives is best arrived at through discussion, where compromise cannot be reached the broader provincial interest must prevail.

14. That the Planning Act require the Minister, where he has amended a municipal planning strategy and zoning by-law in conformity with a provincial land use policy, to place an advertisement in a local newspaper for the purpose of informing the public of the amendments.

15. That the Planning Act establish that where an adopted provincial land use policy and any accompanying regulations are in effect and there is a conflict between any provision of the policy and regulation and any provision in a municipal planning stategy and zoning by-law covering the same area, the provincial requirement prevails.

16. That the Planning Act establish that there shall be no provincial land use regulations in an area where the council has an approved municipal planning strategy and zoning by-law in conformity with a provincial land use policy or has amended its strategy and by-law in conformity with a provincial land use policy.

17. That the Planning Act provide for the appointment of one or more provincial development officers to administer any provincial regulations considered necessary to implement a provincial land use policy.

18. That the Planning Act set out procedures for the administration of such provincial land use regulations as may be necessary to implement a provincial land use policy, including the right of the applicant to appeal the withholding of approval by a provincial development officer.

19. That the Planning Act require a decision of a provincial development officer, at the request of the applicant, to be in writing and that where a development officer refuses an application, any written decision shall contain reasons for the refusal.

20. That the Planning Act contain provisions requiring provincial departments and agencies to respect and adhere to municipal planning strategies and land use controls, where in effect, unless it can be clearly shown that such compliance would jeopardize some statutory provincial interest established by Act or Regulation.

SUPPORTING RECOMMENDATIONS

1. That the provincial government as a matter of policy require its departments and agencies to advise and assist municipal governments in the preparation of their municipal planning strategies.

2. That the provincial government develop the capability for co-ordinating the administration of programs within government.

## REGIONAL PLANNING

The Planning Act must establish a mechanism as described above under "Provincial Planning" so that the provincial government will define its interest in the use and development of land in Nova Scotia through statements of provincial land use policy. These policies should then be regionalized through discussions with affected municipalities and the public.

### PLANNING ACT RECOMMENDATION

That the Planning Act not include provisions for preparing and adopting regional development plans.

### SUPPORTING RECOMMENDATIONS

1. That funds currently allocated to district planning commissions for the preparation of regional plans be used instead to ensure that all municipalities have the staff resources available to effectively respond to provincial initiatives in discussing proposed land use policies.

2. That the Department of Municipal Affairs structure its review of the Halifax-Dartmouth Regional Development Plan with a view to replacing it with provincial statements on policy with respect to the provincial government's aims and objectives for the metropolitan area. The inter-municipal elements of the present plan should be referred to the municipal governments in the region for their consideration as matters which could be addressed in an inter-municipal planning exercise.

## SPECIAL DEVELOPMENT CONTROL AREAS

Recommendations under "Provincial Planning" if implemented would give the provincial government the ability to establish land use policies and regulations to protect its interest in the use and development of land in Nova Scotia. Under "Subdivision" it is recommended that the Minister of Municipal Affairs establish basic subdivision controls where the municipalities have not. These two powers should give the provincial government sufficient latitude to guide the orderly, physical, social and economic development of Nova Scotia.

### PLANNING ACT RECOMMENDATION

That the Planning Act not include provisions for the establishment of special development control areas.

## MUNICIPAL PLANNING

If planning is to become a basic and on-going function of municipal government, the Planning Act must delegate to the municipalities authority to address local planning problems in the manner they consider effective. The planning process can be incremental beginning with the identification and resolution of one or two pressing local issues expanding over time to become a comprehensive plan. For many municipal units this is the only way planning will succeed. The Planning Act must therefore permit municipalities to prepare and adopt plans ranging from simple statements of policy to comprehensive development plans.

To stress the importance of the planning process and more accurately reflect the ability of the Act to accommodate a wide range of community situations and planning approaches, the name "municipal planning strategy" should be used in preference to "municipal development plan."

A municipal council, if it so desires, should be able to include social, economic and environmental considerations as well as physical planning matters in its municipal planning strategy. Furthermore, unless some provincial land use policy adopted under the Planning Act would be jeopardized by the failure of a council to take certain matters into consideration when preparing its municipal planning strategy, the content and scope of a planning strategy should be a local decision.

As to the respective responsibilities of the Department of Municipal Affairs and a municipal council in matters of planning policy, the Minister's concern in approving a municipal planning strategy should be to ensure that the strategy is not in conflict with some stated provincial land use policy adopted under the Planning Act. If the issues are purely local and the planning strategy is legally interpretable and defensible under the Planning Act it should be approved.

To be realized, municipal planning must be brought into the mainstream of municipal management and tied to the financial responsibilities and capabilities of municipal government. The planning strategy gives the council an advance picture of the future needs and activities of the community which the budget must reflect. The integration of planning and budgeting provides the opportunity to schedule projects over time so that the various steps in the development of the community fall logically into one another.

To encourage planning as an on-going process, funding currently provided by the Department of Municipal Affairs to assist municipalities with the development of their municipal planning strategies should be extended to include administrative costs after the strategy and accompanying by-laws are in place.

Municipalities should draw up their own planning schedules according to their planning capability but should be required to evaluate the progress of the exercise at regular intervals within that schedule. As well, municipal councils should have explicit authority to plan on their own initiative.

The importance of public participation throughout the municipal planning process cannot be overstressed. The Planning Act must establish the right of the public to be notified and heard, to participate in all stages of the planning process and to have access to all relevant information and reports at a time that will reasonably permit an opportunity for public discussion and input before planning decisions are made. Within these legislative minimums, the actual procedures for consulting and involving the public should be locally determined.

## RURAL PLANNING

Rural land use planning cannot take place in a vacuum. It must be supported by provincial statements of land use policy. Just as essential to rural development as provincial land use policies, are resource management programs and community development programs. Although beyond the scope of planning legislation, the provincial government must recognize that such programs and appropriate financial incentives must accompany statements of provincial land use policy adopted under the Planning Act.

In addition to requiring the provincial government to adopt land use policies, the Planning Act must provide rural councils with sufficient scope and flexibility to address local planning issues of importance to their residents in the manner they consider most effective. This could range from doing nothing, through the development of a simple statement of policy, to the adoption of a comprehensive land use plan and accompanying development controls.

Recommendations below concerning the range of issues which may be addressed by a municipality in its municipal planning strategy are wide enough to permit rural councils to deal with any municipal planning matter coming before them.

## PLANNING ACT RECOMMENDATIONS:

1. That the name "municipal planning strategy" be used where reference is made in the present Planning Act to a municipal development plan.

2. That the Planning Act permit municipal councils on their own initiative to prepare and adopt planning documents ranging from simple statements of policy to comprehensive development plans.

3. That the Planning Act state that a municipal council may prepare and adopt a municipal planning strategy for only a portion of the area within its boundaries or a single community under its jurisdiction.

4. That the Planning Act state that unless some provincial land use policy adopted under the Act would be jeopardized by the failure of council to take certain matters into consideration, the content and scope of a municipal plan should be a local decision.

5. That the Planning Act require the Minister to pay fifty percent of the cost of preparing a municipal planning strategy and administering zoning and subdivision by-laws.

6. That the Planning Act require a municipal unit at the initiation of a planning program to consult with the Department of Municipal Affairs in order to ascertain those adopted provincial land use policies that are relevant.

7. That the Planning Act state that the purpose of a municipal planning strategy is:

    - to serve as a policy framework within which the council and residents may be guided in formulating decisions with respect to the use and development of land

-- to establish policies which address problems and opportunities concerning the development of land and the social, environmental and economic effects of that development

— to set forth the desired timing, patterns and characteristics of future development of land and to determine the probable social, environmental and economic consequences of that development

— to establish policies concerning the role of the public in determining community goals and objectives and in the implementation of the planning strategy

— to establish and specify programs and actions necessary for the implementation of the planning strategy

8. That the Planning Act state that a municipal planning strategy shall include statements of policy with respect to some or all of the following:

— The aspirations of the municipality for its future.

— The conservation, management and improvement of the physical and social environment of the municipality.

— The use and protection of land and other resources including agricultural land and activities, forested areas, natural and wildlife areas, watershed areas and groundwater recharge areas.

— The use and protection of floodplains, steep slopes, lands susceptible to erosion, swamps, marshes and other environmentally sensitive areas.

— The preservation, protection, or enhancement of areas of land, buildings, and structures by reason of their historical, archeological, architectural, environmental, or scenic significance.

— The location of top soil removal areas, gravel and sand pits, quarries, and other extractive uses.

— The use, change in use or in the intensity of use, of residential, commercial, industrial, recreational, open space, institutional, and other activities on or affecting the land.

— The continuance or discontinuance of non-conforming uses in accordance with the requirements of the Planning Act.

- Land use control measures, including comprehensive development districts and contract developments.

- Conditions under which an environmental impact assessment would precede shoreline development.

- Dedications of land or cash in lieu arising from the subdivision of land.

- Measures for informing and securing the views of the public regarding contemplated planning policies and actions or regulations arising from such policies.

- Energy conservation

- Storm water management.

- The provision of an adequate and efficient transportation network and related systems.

- The provision of municipal services and facilities including:

    - housing;

    - facilities for the provision of health and social services;

    - educational and cultural institutions;

    - public buildings;

    - parklands, playgrounds, public open spaces, and other recreational facilities;

    - the supply and distribution of water;

    - the collection, disposal, and treatment of sewage and the disposal of refuse and the control of pollution generally;

    - the programming of municipal investment in respect of public and private development in terms of costs and available financial resources, including the phasing of the development or redevelopment of various areas of the municipality.

- The co-ordination of public programs relating to the economic, social, and physical development of the municipality.

- Any other matter related to the physical, social, or economic environment of the municipality.

9. That the Planning Act require a municipal council, before preparing a municipal planning strategy, to adopt by resolution a public participation program.

10. That the Planning Act require a municipal council, prior to the adoption of a public participation program to

    - notify the public of its intention to adopt a public participation program, outlining the purpose of the program and where further information regarding the program is available.

    - hold a public hearing to receive comments on the proposed public participation program.

11. That the Planning Act require a council, in the preparation of its municipal planning strategy, to take into consideration and make such studies as as may be necessary with respect to:

    - the probable social, environmental and economic consequences of proposed policies;

    - the convenient movement of people and goods by public and private modes of transportation within the planning area and to and from surrounding areas;

    - municipal facility and service requirements in relation to projections of population;

    - the promotion of the efficient use of all forms of energy within the planning area;

    - the minimization of public costs;

    - the character of the planning area and the preservation or enhancement of the amenities within it;

    - the best use of the natural environment in the planning area;

    - the stated objectives, policies and programmes of the provincial government;

- the suitability of land for various uses;
- the effects on persons outside the area and adjoining municipalities;
- land use requirements in relation to projections of population and economic growth.

12. That the Planning Act provide for reasonable public access to background information and studies produced during a municipal planning program.

13. That the Planning Act require a council, during the preparation of a municipal planning strategy, to hold public meetings for the informal discussion and exchange of information and also to hold formal hearings at which oral and written submissions are received and considered.

14. That the Planning Act restrict the Minister's power to order a municipal council to plan to those situations where the absence of municipal planning jeopardizes a provincial land use policy adopted under the Planning Act.

15. That the Planning Act require all municipal councils which are receiving funding from the Minister of Municipal Affairs under the Planning Act to file an annual planning progress report with the Minister of Municipal Affairs.

16. That the Planning Act restrict Ministerial approval/refusal of a municipal planning strategy to legal considerations, conformity with any applicable inter-municipal planning strategy, and the identification and resolution of conflicts between municipal strategy policies and provincial land use policies adopted under the Planning Act.

17. That the Planning Act provide that where in the opinion of the Minister a municipal planning strategy submitted for his approval is in conflict with an adopted provincial land use policy that covers the same area, the Minister shall advise the council of the municipality of the particulars of the conflict and invite the municipality to submit, within the time specified by the Minister (not less than 90 days) proposals for the resolution of the conflict.

18. That the Planning Act provide that where a council fails to submit proposals to resolve the conflict specified by the Minister or where, after consultation with the Minister on such proposals the conflict cannot be resolved and the Minister so notifies the council in writing, the Minister may approve the planning strategy subject to such changes being made as he considers necessary to resolve the conflict.

19. That the Planning Act require, in those instances where the Minister feels that substantial changes must be made in a planning strategy after it has been presented to the public, that a further public hearing be held in the municipality by the Minister to consider such changes prior to his approval of the strategy.

20. That the Planning Act require the Minister, where he makes changes to a strategy to submit a written explanation for the change with the document at the time of its approval.

21. That the Planning Act require municipal planning strategies submitted for Ministerial approval to be accompanied by a written estimate of the cost of undertaking capital works related to the implementation of the strategy.

22. That the Planning Act require a council to review its municipal planning strategy every five years and to establish a public participation program and hold such meetings and hearings as would have preceded the initial adoption of the strategy.

23. That the Planning Act require a council, when reviewing its municipal planning strategy to give consideration to such matters and to review the background studies initially carried out during the preparation of the strategy and to carry out such further studies as may be necessary.

24. That the Planning Act require Ministerial approval of amendments to a planning strategy, subject to the same constraints outlined with respect to the approval/refusal of a municipal planning strategy.

25. That the Planning Act require a copy of a municipal planning strategy and any subsequent amendments to be filed in the Registry of Deeds.*

26. That the Planning Act require Ministerial consent to sell municipally owned lands.

SUPPORTING RECOMMENDATIONS:

1. That the Department of Municipal Affairs undertake to promote and more fully explain the planning alternatives available under the Act.

2. That the Department of Municipal Affairs continue in its effort to strengthen municipal planning capabilities by providing financial and staff resources.

3. That the Department of Municipal Affairs be more supportive of innovative planning approaches and assist municipal units in finding solutions to unclear situations which arise during the plan preparation process.

4. That the Department of Municipal Affairs attach more importance to relating budget estimates and capital borrowings to municipal plan policies and assist municipal units to relate planning strategies to budgeting.

*Reflects responses to the Interim Report which felt it essential that a copy of all planning documents be kept on hand in both municipal offices and the local Registry of Deeds. Filing in the Registry provides an independent source of complete information for a person who wishes to determine if and when an amendment has been passed and the exact nature of the amendment. Keeping of dual records also prevents total loss in the event of fire.

5. That it be encumbent on the Department of Municipal Affairs, as the department required to approve all municipal capital borrowings, to ensure that such borrowings proposed by a council are consistent with its municipal planning strategy.

6. That the Department of Municipal Affairs undertake to provide municipal administrators, development officers, and others charged with specific duties under the Act, with guidelines and such interpretations by the Department as may be available, to assist them in meeting their responsibilities.

7. That the Department of Municipal Affairs undertake to streamline its procedures for reviewing and approving amendments which are intended to accommodate more detailed area plans which conform to an approved overall municipal planning strategy.

8. That the Department of Municipal Affairs assist municipalities during the preparation of their municipal planning strategies by referring matters of mutual or provincial jurisdiction to the relevant provincial departments for discussion and comment.

9. That the Department of Municipal Affairs undertake to gather information relevant to municipal planning which is in other provincial departments and make it available to municipal planning officials.

## PLANNING ADVISORY COMMITTEES

The Planning Advisory Committee (PAC) is intended to provide a forum for bringing local views into the municipal planning process. Its composition should be decided at the local level and include both council and citizen members.

In the rural municipalities where distances and the diversity of the community can create a sense of isolation from government a forum for community or area consultation must be developed.

PLANNING ACT RECOMMENDATIONS:

1. That the Planning Act state that the composition of planning advisory committees shall be at the discretion of council, but shall include both council members and residents of the community.

2. That the Planning Act require a planning advisory committee to advise and assist council in matters affecting planning generally, and in the preparation and amendment of a municipal planning strategy and zoning and subdivision by-laws.

3. That the Planning Act require notices setting out the agenda of a planning advisory committee meeting to be posted in municipal offices prior to each meeting.

4. That the Planning Act state that all meetings of a PAC shall be open to the public but permit a planning advisory committee, by a majority vote of members present, to move a meeting in camera.*

5. That the Planning Act require the following information to be made available at cost to the public upon request:

   - agenda of the planning advisory committee
   - reports, other than the opinion or report of a lawyer to the planning advisory committee, after they have been submitted to the committee
   - minutes of the planning advisory committee after they have been approved
   - reports of the planning advisory committee after they have been submitted to council.

6. That the Planning Act enable a council on the recommendation of a PAC to establish area advisory committees which would liaise between local residents and the PAC with respect to planning matters affecting municipal units generally and the local area specifically.

---

*Reflects responses to the Interim Paper which felt that while planning advisory committee meetings should be open to the public there may be certain matters of a legal or personal nature where it would be desirable for the committee to move a meeting in camera.

## ZONING BY-LAWS

Municipal governments must have the latitude to address planning problems in the manner they consider most effective. In this regard, councils should also be allowed to determine what land use controls are necessary, and what form these controls should take to best meet the needs of the municipal unit.

Zoning is essentially a means of ensuring that the land uses and developments in a community are properly situated in relation to one another. The municipal planning strategy provides a framework for the development of a community within which decisions on the location and pattern of land use may be made. Without this over all strategy in place to guide development decisions, land use regulations become arbitrary. A municipality wishing to regulate land use and development within its jurisdiction, whether through conventional zoning or other techniques, should only be able to do so in conformance with policies set out in an approved municipal planning strategy. The policies set out in the municipal planning strategy will determine the content of the zoning by-law.

In those communities where the development and adoption of policies is felt to be more important than the regulation of development, a municipal council should be permitted to adopt a municipal planning strategy without concurrently passing a zoning by-law.

The Act must also distinguish between the power to prohibit development in environmentally sensitive areas and the power to withhold development approval either because of excessive servicing costs or in areas where development would be premature due to the absence of or limited capacity of central services.

As with municipal planning strategies the public should be given adequate opportunity to review and comment on any proposed zoning by-law or amendments before they are considered for approval by council.

## PLANNING ACT RECOMMENDATIONS:

1. That the Planning Act provide for the repeal of zoning by-laws passed under the former Town Planning Act and that the repeal take place two years after the Planning Act is proclaimed.*

2. That the Planning Act state that a municipal council shall only adopt or amend a zoning by-law for the purpose of carrying out the intent of its municipal planning strategy.

3. That the Planning Act permit a council which does not wish to control land use or development within its boundaries, to adopt a municipal planning strategy without concurrently passing a zoning by-law.

4. That the Planning Act require that a zoning by-law:

   — include a map or maps dividing the municipality into zones;

*Reflects responses to the Interim Report which were critical of municipal units which are enforcing an old zoning by-law without an overall strategy in place to guide development decisions.

- prescribe for each zone the permitted uses of lands, buildings and structures and the conditional uses of them, if any;

- provide for the issuing of development permits and the procedures whereby an application for a development permit is to be made and processed;

- provide for the appointment of one or more municipal development officers, who shall be the development officer(s) of the district planning commission, if any, of which the municipality is a member, who shall administer the zoning by-law and issue development permits under the by-law and grant minor variances;

- establish information to be submitted and procedures to be followed by a person wishing to obtain an amendment to the zoning by-law.

5. That the Planning Act enable a council to incorporate performance standards into its zoning by-law.

6. That the Planning Act establish that a zoning by-law may contain provisions:

    - prohibiting the use of land except for such purposes as may be set out in the by-law;

    - prohibiting the erection or use of buildings or structures except for such purposes as may be set out in the by-law;

    - regulating or prohibiting the making or establishment of sand and gravel pits or quarries;

    - establishing the dimensions and area of lots or parcels of land that may be used in any district for particular uses of lands or buildings;

    - establishing, for any district, the number of buildings, and the maximum and minimum floor area of each building, that may be erected or placed on any unit of land of such area as is specified in the by-law;

    - establishing the location, size and number of access points to a parcel from adjoining highways or streets;

    - regulating the location, height, and dimensions, of any building or other structure to be erected, constructed, reconstructed, altered, or moved;

- regulating the amount of land that, in any district, may be covered by buildings or structures and the size of yards, lawns, courts, or other open spaces adjacent to any building;

- requiring the owner, lessee, or other occupant of buildings, or other structures erected, placed, or used for a permissible purpose after the enactment of the by-law to provide and maintain, on property owned and occupied by him any necessary loading or parking facilities;

- regulating or prohibiting the public outdoor display in any form or manner of advertisements, or regulating the nature, kind, size, description, and contents, of any such advertisement permitted to be displayed;

- regulating or prohibiting the placement of fences, walks, hedges, shrubs and trees and other objects which provide a buffer between lands for different purposes;

- regulating or prohibiting the outdoor storage of goods, machinery, vehicles, building materials, waste materials and other items and requiring outdoor storage sites to be screened by fences, hedges or buildings;

- regulating the permissible densities of population which may be expressed on the basis of the number of dwelling units per unit of area;

- regulating the architectural design, character and external appearance of buildings or other structures;

- regulating the sequence of development.

7. That the Planning Act permit a municipal council where its municipal planning strategy so provides to zone areas for the purpose of prohibiting the erection of any building or structure:

    - within a specified distance of any lake, river, water course or body of water.

    - on land that is subject to flooding or subsidence or is low-lying, marshy or unstable, or is otherwise unstable or

hazardous for the proposed purpose by virtue of its soil or topography.*

8. That the Planning Act permit a municipal council where its muncipal planning strategy so provides to zone areas for the purpose of prohibiting all or certain types of development where municipal servicing costs are prohibitive or where the provision of municipal services would be premature.**

9. That the Planning Act permit a municipal council to pass a by-law for the purpose of regulating or prohibiting the altering of land levels for building or other purposes where it may affect surface drainage.

10. That the Planning Act require a copy of a zoning by-law and any subsequent amendments to be filed in the Registry of Deeds.

11. That the Planning Act require a council to hold a public hearing and receive written and oral submissions before adopting, amending or repealing its zoning by-law.

12. That the Planning Act require a council, prior to the public hearing to place two advertisements in a newspaper circulating in the area affected, the first notice to be published at least 30 clear days prior to the date set down for the public hearing and the second no more than 15 clear days but no less than 7 clear days before the hearing.

13. That the Planning Act set out that the newspaper advertisements shall include:

    - a statement of the purpose of the proposed by-law or amendment.
    - a description of the area affected by:
        - reference to street names and addresses or commonly understood area designations,
        - publication of a map of the area, or

---

* Reflects responses to the Interim Report which felt it essential that a municipal unit be permitted to prevent development in environmentally sensitive areas and on lands which were not suited to development because of their physical instability.

**Reflects responses to the Interim Report which felt that the staging development and withholding development approval because of prematurity or excessive cost should be separate from provisions which permit the prohibition of development in environmentally sensitive areas.

— in the case of an amendment of general application which does not designate land for specific uses, by a description of the type of property affected according to zoning districts but not by the specific location of all such property.

— the name of one or more places where a copy of the proposed by-law and any reports and documents to which a person is entitled under the Planning Act may be inspected by the public.

— the one or more dates, places and times the council will hold a public hearing with respect to the proposed by-law or amendment.

— the procedure to be followed by anyone wishing to be heard at the public hearing and the procedure by which the hearing will be conducted.

14. That the Planning Act provide where an application to change the zoning of a particular property is made by other than the assessed owner, that the development officer shall notify the owner of the property.

15. That the Planning Act establish, where a council decides not to amend or repeal its zoning by-law as requested and does not proceed with a public hearing to consider the matter that the applicant may appeal to the Municipal Board and that the Board shall only decide the appeal after it has held an advertised public hearing in the municipality where the site subject of the appeal is located. The timing and content of the advertisement is to be the same as would be required under the Act prior to the adoption, amendment, revision or repeal of the zoning by-law by council.

16. That the Planning Act state that the decision of council to amend, revise or repeal a zoning by-law may be appealed by an aggrieved person, the Director of Planning for the Province or the council of an adjoining municipality within 15 days of a notice in the newspaper advising of council's decision.*

17. That the Planning Act state that the decision of council not to amend, revise or repeal a zoning by-law may be appealed by the applicant within 15 days of the decision.

*The more restrictive "aggrieved person" reflects responses to the Interim Report which urged that measures be taken through legislation to discourage individuals from launching appeals to harrass or unduly delay proposed development. It was the feeling of those who responded that malicious appeals could place an undue financial burden on development proponents and that such abuses should be discouraged.

18. That the Planning Act restrict the Minister of Municipal Affairs' power to refuse to approve a zoning by-law to legal considerations and situations where the provisions in the by-law are in conflict with or inadequate to carry out the intent of its municipal planning strategy.

19. That the Planning Act establish that where an amendment to a zoning by-law is for the purpose of implementing a detailed area plan, the amendment will not be subject to appeal but will require the approval of the Minister of Municipal Affairs.*

20. That the Planning Act require a development officer, at the request of the applicant, to give written reasons for his refusal to issue a development permit under a zoning by-law.

21. That the Planning Act permit a development officer to grant a minor variance from the zoning by-law with respect to the percentage of land that may be built upon; building lines and the size of yards, courts, and other open spaces; lot size and lot frontage.

22. That the Planning Act require the development officer, where a minor variance is granted to notify abutting property owners by certified mail or personal service within seven clear days of the grant of the variance.

23. That the Planning Act require a development officer, when requested, to give written reasons for an approval or refusal by him with respect to a minor variance.

24. That the Planning Act provide where a development officer refuses to grant a minor variance that there may be an appeal to council by the applicant and where a development officer grants a minor variance that there may be an appeal to council by an abutting property owner within 15 days of the date of mailing or personal service above.

*Reflects responses to the Interim Report which suggested that an amendment to the zoning by-law which carries out the intent of a secondary plan or detailed area plan should be treated in the same manner as a new zoning by-law.

## CONTRACT ZONING & COMPREHENSIVE DEVELOPMENT DISTRICTS

Within the limits set out in a municipal planning strategys the use of contract zoning and comprehensive development districts is at the discretion of council. Through the application of contract zoning and comprehensive development districts, a council can exercise a great deal of latitude in deciding on future developments. Before a council can use either technique it must clearly and precisely set out in its planning strategy the circumstances under which either approach will be considered and the conditions or criteria to be considered in deciding whether or not to allow a proposed development.

It must be realized that the introduction of contract zoning and comprehensive development districts reduces the certainty about where future development will occur and what uses will be allowed in different neighbourhoods. It is therefore important that the public be notified and heard before a council decides to permit a development proposal under either avenue. For consistency, notification and public hearing procedures for development proposals under contract zoning or a comprehensive development district should be the same as for an application to amend a zoning by-law; that is, the public should be notified and a public hearing held prior to any resolution of council to enter into an agreement. An outline describing the effects of any proposed contract or agreement should be available for public inspection prior to the public hearing. Where a signed agreement is substantially changed or terminated, the procedure for public notification, hearing and so on should be the same as for adoption of the initial agreement. Signed agreements and any amendments should be filed in the office of the Registrar of Deeds.

A municipal council should be treated no differently from anyone else with respect to contracts and should not be forced to enter into one against its will. Therefore, there should be no right of appeal where council refuses to enter into an agreement to permit a development under contract zoning or a comprehensive development district.

### PLANNING ACT RECOMMENDATIONS:

1. That the Planning Act state that the use of contract zoning and comprehensive development districts will only be permitted where policies and guidelines regarding the application of these two techniques are set out in an approved municipal planning strategy.

2. That the Planning Act specify that contract zoning is a method to instill some flexibility or additional control into the by-law and is not to be used to circumvent the restrictions of the zoning by-law.

3. That the Planning Act require a council, before passing a resolution to enter into an agreement to permit development under contract zoning or a comprehensive development district, to notify the public and hold a public hearing to discuss the proposal before signing the agreement.

4. That the Planning Act set out notification and public hearing procedures which are the same as for an amendment to a zoning by-law and require that an outline of the effects of any contract or agreement be available for public scrutiny prior to the hearing.

5. That the Planning Act require a council to follow the same public notification and hearing procedures when making substantial changes to, or terminating a signed agreement, as those which apply to the initial agreement.

6. That the Planning Act state that there is no right of appeal where council refuses to enter into an agreement to permit a development under contract zoning or a comprehensive development district.

7. That the Planning Act establish that the passing of a resolution to enter into an agreement to permit a contract development or a development under a comprehensive development district may be appealed by an aggrieved person, the Director of Planning for the Province or the council of an adjoining municipality within 15 days of a notice in the newspaper advising that council has passed the resolution.*

8. That the Planning Act require that signed agreements giving effect to a development by contract zoning or comprehensive development district and any amendments be filed in the Office of the Registrar of Deeds.

SUPPORTING RECOMMENDATIONS

1. That the term contract 'development' be used instead of contract 'zoning' and that the phrase appear either in the body of the legislation or in the margin notes and index to the Planning Act.

*The more restrictive "aggrieved person" reflects responses to the Interim Report which urged that measures be taken through legislation to discourage individuals from launching appeals to harass or unduly delay proposed development. It was the feeling of those who responded that malicious appeals could place an undue financial burden on development proponents and that such abuses should be discouraged.

## INJURIOUS AFFECTION

The awarding of compensation or the recapture of betterment arising from the adoption, amendment or repeal of a planning strategy and accompanying by-laws or a statement of provincial land use policy and land use regulations is considered impractical and is inconsistent with the philosophy of planning for the public interest.

Although the coming into effect of a planning strategy or provincial policy and accompanying by-laws and regulations should not in itself provide the basis for claims of injurious affection, a property owner is entitled to seek compensation through the courts if he feels he has been injuriously affected by a project carried out after the strategy or policy came into effect.

## PLANNING ACT RECOMMENDATION

That the Planning Act restrict claims for injurious affection to projects carried out under a municipal planning strategy and zoning by-law or a provincial land use policy and accompanying regulations.

## LANDS FOR PUBLIC PURPOSES

An owner of property should be entitled to compensation where his lands have been designated for some public purpose under a municipal planning strategy and zoning by-law or a provincial land use policy and regulation.

PLANNING ACT RECOMMENDATIONS:

1. That the Planning Act state that a municipality may zone land for public purposes for a period up to three years on the condition that the municipality annually pay to the owner an amount of money equal to not less than 10 per cent of the value of the land; which may be credited toward the purchase price of the land.

2. That the Planning Act require a municipality in its zoning by-law to set out an alternative non-public use for lands designated for public purposes, which will come into effect if the land is not acquired at the end of three years from the date of designation.

3. That the Planning Act state that the provincial government may designate land for public purposes subject to the same conditions as apply to a municipality.

## DEMOLITION

During the review a number of submissions were received from heritage groups and interested individuals concerned that there was no control over the demolition of heritage buildings. The provincial government has since passed the Heritage Property Act which includes provisions regulating the demolition of historically significant buildings and structures.

For those municipal units who still feel they need control over demolition because of the development pressures it creates, provisions should be set out in the Planning Act which would enable a council, within specified guidelines, to regulate the demolition of buildings within certain areas designated in its municipal planning strategy.

PLANNING ACT RECOMMENDATIONS:

1. That the Planning Act include provisions enabling councils to approve or refuse to approve an application to allow the demolition of a building within areas designated in a municipal planning strategy and subject to guidelines set out in the Act.

2. That the Planning Act specify that demolition provisions under the Act do not apply to buildings designated under the Heritage Property Act.

## NON-CONFORMING USE

The Planning Act should provide councils with certain options on how to deal with non-conforming uses and buildings.

Whether non-conforming uses should be restricted and terminated under certain circumstances, or whether they should be permitted to expand and recommence after damage or discontinuance, should be the decision of council. However, the manner in which council deals with non-conforming uses must be based on explicit planning policies set out in an approved municipal planning strategy.

Integral to this approach of dealing with non-conforming uses is provision for public notification regarding the enlargement or recommencement of a non-conforming use, with appropriate appeal procedures.

## PLANNING ACT RECOMMENDATIONS

1. That the Planning Act permit a council, within guidelines set out in the Act, to establish policies in its municipal planning strategy with respect to the structural alteration, extension, enlargement or termination after destruction or discontinuance, of non-conforming uses and non-conforming buildings.

2. That the Planning Act define a "non-conforming building" as a building

   (i) that is lawfully constructed or lawfully under construction on the date that a zoning by-law or amendment affecting the building or the land on which the building is situated comes into effect, and

   (ii) that on the date the zoning by-law or amendment comes into effect, does not, or when construction is completed, will not, conform to the by-law.

3. That the Planning Act define a "non-conforming use" as a lawful specific use

   (i) being made of land or a building or intended to be made of a building lawfully under construction, on the date that a zoning by-law or amendment affecting the land or building comes into effect, and

   (ii) that on the date the zoning by-law or amendment comes into effect does not, or in the case of a building under construction will not, conform with the zoning by-law.

4. That the Planning Act provide that where a development permit has been issued on or before the date that a zoning by-law or amendment comes into effect and the enactment of the by-law would render the development

in respect of which the permit was issued a non-conforming use or building, the development permit continues in effect.

5. That the Planning Act enable a council to acquire and with the consent of the Minister dispose of land or buildings which do not conform to the zoning by-law.

6. That the Planning Act permit only the existing specific non-conforming use to continue, unless otherwise set out in a municipal planning strategy.

7. That the Planning Act set out the same public notification and hearing procedures as would be followed for a zoning by-law amendment where a council, under its municipal planning strategy, permits the alteration, extension, enlargement or recommencement of a non-conforming use or the reconstruction of a non-conforming building.

8. That the Planning Act establish that a decision of council under its planning strategy to refuse to allow the alteration, extension, enlargement, recommencement or reconstruction of a non-conforming use or a non-conforming building may be appealed by the applicant within 15 days of the decision.

9. That the Planning Act establish that a decision of council under its planning strategy to approve the alteration, extension, enlargement, recommencement or reconstruction of a non-conforming use or a non-conforming building may be appealed by an aggrieved person within 15 days of a notice in the newspaper advising of the approval.

10. That the Planning Act not contain provisions regarding the maintenance of non-conforming buildings and non-conforming uses.

11. That the Planning Act not contain provisions with respect to the amortization of non-conforming uses and non-conforming buildings.

## INTER-MUNICIPAL PLANNING

Many planning issues in Nova Scotia transcend municipal boundaries. A current example would be the protection of public water supplies.

Early planning and a clearly defined strategy are essential to deal effectively with these difficult and often sensitive inter-municipal issues. It is appropriate that avenues for co-operation be fostered by the Planning Act. Inter-municipal dialogue and agreement through a planning process would create the opportunity for public discussion and input. District planning commissions (DPC) theoretically provide an opportunity for inter-municipal co-operation but this in itself is not sufficient. The Planning Act should therefore include provisions for two or more municipalities to jointly prepare an inter-municipal planning strategy. Once adopted it would be mutally binding and would be in addition to the municipal planning strategy prepared by an individual municipal unit.

Joint planning advisory committees (JPAC), municipal planning operations and district planning commissions should receive the same level of financial assistance from the Province for the purpose of inter-municipal planning.

PLANNING ACT RECOMMENDATIONS:

1. That the Planning Act permit the councils of two or more municipalities to prepare and adopt a mutually binding inter-municipal planning strategy.

2. That the Planning Act require the Minister of Municipal Affairs to finance fifty percent of the cost of preparing and administering an inter-municipal planning strategy.

3. That the Planning Act state that an inter-municipal planning strategy may apply to such areas within the municipalities as the councils consider necessary.

4. That the Planning Act state that the content of an inter-municipal strategy is a matter of discretion for the participating councils.

5. That the Planning Act state that in preparing an inter-municipal planning strategy the participating councils shall have due regard for any land use policies adopted by the provincial government under the Act.

6. That the Planning Act permit the participating councils, by agreement, to decide whether to work together directly at the council level, through their respective PAC's, through the DPC in which they participate if any, or through the establishment of a special joint planning advisory committee.

7. That the Planning Act state that where the participating councils decide to establish a special joint planning advisory committee for the purpose of advising them on the preparation of an inter-municipal strategy, the composition of the JPAC should be at the discretion of the participating councils but shall include both councillors and residents. As with DPC's and PAC's, all JPAC meetings and reports arising from the meetings should be accessible to the public.

8. That the Planning Act set out the same procedures for notifying and involving the public with respect to the preparation, adoption, amendment, revision, review and repeal of an inter-municipal planning strategy, as those required for a municipal planning strategy.

9. That the Planning Act state that the Minister of Municipal Affairs in approving an inter-municipal planning strategy shall be limited to legal considerations and the identification and resolution of conflicts with a statement of provincial land use policy adopted under the Planning Act or some statutory provincial interest established by Act or Regulation.

10. That the Planning Act provide that where in the opinion of the Minister an inter-municipal planning strategy submitted for his approval is in conflict with an adopted provincial land use policy or provincial statute that covers the same area, the Minister shall advise the participating councils of the particulars of the conflict and invite them to submit, within the time specified by the Minister (not less than 90 days) proposals for the resolution of the conflict.

11. That the Planning Act provide where the councils fail to submit proposals to resolve the conflict specified by the Minister or where after consultation with the Minister on such proposals the conflict cannot be resolved and the Minister so notifies the councils in writing, that the Minister may approve the strategy subject to such changes being made as he considers necessary to resolve the conflict.

12. That the Planning Act require, in those instances where the Minister feels that substantial changes must be made in an inter-municipal planning strategy after it has been presented to the public, that a further public hearing be held by the Minister to consider such changes prior to his approval of the strategy.

13. That the Planning Act require the Minister, where he makes changes to a strategy to submit a written explanation for the change with the document at the time of its approval.

14. That the Planning Act require a copy of an inter-municipal planning strategy and any subsequent amendments to be filed in the Registry of Deeds.

15. That the Planning Act state that policies set out in an approved inter-municipal planning strategy shall be implemented through the adoption or amendment of a municipal planning strategy and related by-laws by each participating council.

16. That the Planning Act state that where a municipal planning strategy, or zoning by-law, is in conflict with an inter-municipal planning strategy the latter shall prevail.

## DISTRICT PLANNING COMMISSIONS

District planning commissions (DPC) should become the focal point of and sounding board for inter-municipal concerns. The replacement of regional planning by statements of policy at the provincial level and the development of locally initiated inter-municipal planning should help to strengthen the roll of the DPC as the forum for the discussion of inter-municipal issues. It is therefore important that district planning commission meetings and information arising from them be accessible to participating councils and the public.

There are also a number of administrative procedures under the present Planning Act which must be improved in the new Act.

PLANNING ACT RECOMMENDATIONS:

1. That the Planning Act state that the Minister will only establish a DPC at the request of participating councils and that the order establishing a commission may only be amended or repealed with the approval of participating councils.

2. That the Planning Act require Ministerial consent to withdraw from a DPC.

3. That the Planning Act state that a district planning commission shall promote interest in the activities of the commission and shall establish procedures for involving member municipal councils and the public in planning matters.

4. That the Planning Act require notices setting out the agenda of a district planning commission meeting to be posted in the municipal offices of each participating council prior to each meeting.

5. That the Planning Act state that all district planning commission meetings are open to the public but permit a DPC by a majority vote of members present to move a meeting in camera.*

6. That the Planning Act require the following information to be made available at cost to the public upon request.

   - agenda of the DPC
   - reports to the DPC after they have been submitted to the commission but not the opinion or report of a lawyer, a financial report or personnel report

*Reflects responses to the Interim Report which felt that while district planning commission meetings should in the first instance be open to the public, there should be provision by which a commission could move in camera to discuss matters of a legal, financial or personal nature.

- minutes of the DPC after they have been approved.

- reports of a DPC after they have been submitted to the councils of the participating municipal units

7. That the Planning Act permit a DPC, to the extent authorized by the participating municipal units and subject to the approval of the Minister, to acquire and dispose of real property.

8. That the Planning Act permit a district planning commission to employ one or more development officers.

9. That the Planning Act not include provisions requiring the auditor for the commission to be an auditor for one of the participating municipal units.

10. That the Planning Act set down an October 15 deadline for submitting DPC budgets to the Minister.

11. That the Planning Act set down a time limit for Ministerial objection to an item in a DPC budget.

12. That the Planning Act set down procedures for the arbitration of disputes with respect to DPC estimated expenditures.

13. That the Planning Act establish that the method by which municipal units will make payments to cover DPC costs will be set out in the order creating the commission.

## SUBDIVISION

The right of the property owner to subdivide and convey his property is one that is recognized by both law and custom in Nova Scotia. The Planning Act must therefore be able to accommodate subdivision as both a legal tool and an integral part of the land development process.

There also has to be a clear distinction under the Planning Act between the interests and responsibilities of the provincial government and those of municipal government with respect to the regulation of subdivision.

The need to clarify subdivision procedures is particularly acute given recent litigation which would appear to suggest that deeds arising from plans of subdivision filed without first obtaining proper subdivision approvals under the Planning Act may be invalid.

A single definition of "subdivision" would clear up much of the confusion arising from land division procedures in Nova Scotia and would help to streamline subdivision procedures across the Province.

For the protection of the public and to facilitate the orderly and proper transfer of land titles, it is essential that requirements and procedures related to the quality of subdivision plans and plan approvals are in place across the Province. Given that the provincial government is currently in the process of implementing a long awaited and much needed land titles registration system, it is appropriate that the province, through the Planning Act, accept responsiblity for ensuring that a minimum level of control over subdivision procedures is in place across Nova Scotia.

There is also a further provincial interest in subdivision in that there are a variety of provincial statutes and regulations which have a bearing on activities related to, or arising from the subdivision of land. The Department of Health, through its regulations and standards, is involved in the approval of building lots for on-site sewage disposal. Where subdivision results in the alteration of a watercourse under the Water Act the Department of Environment becomes involved; it also reviews and comments on the overall environmental implications of subdivision applications distributed to the department on a voluntary basis by municipal governments.

For certain types of subdivision the early referral of subdivision plans to these provincial departments is desirable; however, there are certain legislative and administrative arrangements which would have to precede or accompany the inclusion of mandatory referrals in the Planning Act. The Health Act and Environmental Protection Act or regulations under them would have to be amended to give each respective department the legislative mandate to approve, require modification to, or to refuse such subdivisions on health or environmental grounds. Each department must also give careful consideration to its ability to respond efficiently to the additional workload which mandatory referrals would generate. This is particularly true for the Department of Environment which is quite centralized at present and has no regulations in effect to cover these matters.

In the rural municipalities where the Department of Transportation is responsible for the maintenance of all public streets and roads it is essential that all plans of subdivision which abut or require the construction of a public right of way be referred to Department of Transportation to ensure that the design, layout and construction specifications of the Department are met.

Provincial subdivision regulations will serve to standardize basic procedures and information requirements associated with subdivision approval on a province-wide basis. Municipal councils wishing to assume responsibility for the administration of subdivision controls in their respective jurisdictions

could do so by passing a subdivision by-law which incorporates the provincially prescribed minimums. Any additional standards or requirements appropriate to that community could also be incorporated into the by-law if thought necessary by council. Where a municipality assumes responsibility for subdivision control, provincial regulations will lapse.

Subdivision controls serve to protect a municipality from unexpected costs arising from the improper layout and design of subdivisions. By regulating internal design standards and the provision of services at the time that land is divided, subdivision by-laws provide a partial but not complete link between the division of land and its subsequent development. To complete the link, external problems, such as the premature demand for services which could subvert the intent of a municipal planning strategy, that could arise from the development of land once subdivided must be addressed in the municipal planning strategy and reflected in the zoning by-law.

Earlier recommendations in this report, under 'Municipal Planning' and 'Zoning By-laws' which will permit municipal councils to prohibit development in environmentally sensitive areas or in areas where development would precipitate a premature demand for municipal services will enable a council to prevent any adverse development which might result from a subdivision without unduly interferring with the right of the property owner to subdivide and convey his land. However, under certain circumstances, such as where the uncontrolled division of land into parcels and their subsequent sale would effectively subvert the intentions of a municipal planning strategy, it would be beneficial if a municipality could control the number of new lots or parcels created within its jurisdiction.*

Dedications of open space at the time of subdivision should also be related to the type of development intended once the subdivision is approved. Within legislative limits a council must be able to establish its own open space guidelines in its municipal planning strategy and subdivision by-law. A council could then define the types of land which were or were not acceptable as open space dedications; establish a uniform percentage for dedications or develop a range of requirements based on use, density or other criteria and set out circumstances when open space requirements would be waived.

Open space and parks are essential for every community and neighbourhood. To encourage more local park development councils should be permitted to accept dedications of land outside the area shown on a final plan of subdivision and be allowed to spend funds obtained from cash in lieu of land on capital improvements as well as land acquisition.

There are also a number of administrative and procedural improvements which are needed to reduce delay and streamline the processing of applications for subdivision approval.

---

*Responses to the Interim Report were varied in their reactions to recommendations aimed at integrating the subdivision of land into the municipal planning process. Some felt that the recommendations if implemented would unduly interfer with the right of a property owner to divide and sell his land. Even those who endorsed the concept of linking subdivision to plan policies were concerned that its practical application was riddled with administrative problems.

In reviewing this matter, PARC concluded that what is needed in Nova Scotia is a planning system which will protect the public purse against unexpected costs arising from the subdivision of land and its subsequent development without unduly interfering in the actual division and sale of land for purposes of transferring ownership. Only where a council can document in its planning strategy and zoning by-law areas where the subdivision of land for the purposes of transferring title would result in land ownership patterns which result in the use of land in a manner inconsistent with municipal objectives should the planning system permit that council to place restrictions on the number of new parcels that can be created within such designated areas.

LEGAL SURVEY:

As the one statute which regulates the land subdivision process, the Planning Act must recognize that the proper definition of property lines arising from subdivision is essential from both legal and planning perspectives. From a consumer protection viewpoint, it is also important that all land owners know the exact boundaries of their property holdings. The Act must therefore require that all subdivided land be subject to a legal survey. While recognizing the real problems this creates in terms of cost, especially where large tracts of resource lands are involved, the financial implications of legal surveys do not, from a planning and legal viewpoint, make such surveys any less essential. Ways to alleviate the financial burden this recommendation may cause some sectors should be examined by the provincial government in consultation with affected parties.

PLANNING ACT RECOMMENDATIONS:

1. That the Planning Act define 'subdivision' as the division of land into two or more parcels.

2. That the Planning Act require that all subdivision of land to be by plan of subdivision certified by a Nova Scotia Land Surveyor and endorsed by a development officer.

3. That the Planning Act require the Minister of Municipal Affairs to prescribe province-wide subdivision regulations which would standardize procedures and requirements with respect to the quality of plans and their subsequent filing in the Registry of Deeds, including:

   - procedures for the approval of tentative plans
   - requirements of tentative plans
   - procedures for the approval of final plans
   - requirements of final plans for registration

4. That the Planning Act require the Minister to notify in writing the council of a municipality affected, of his intention to prescribe, amend or repeal his subdivision regulations at least 45 days prior to so doing and seek the comments of the council.

5. That the Planning Act require the Minister, by means of a newspaper advertisement, to advise the public in the area affected of his intention to prescribe, amend or repeal his subdivision regulations. The advertisement shall state where the regulations can be inspected, invite written comments and be placed in a newspaper circulating in the area at least 30 days before the regulation or amendment takes effect.

6. That the Planning Act require the Minister of Municipal Affairs to appoint such provincial development officers as are necessary to administer the provincial subdivision regulations.

7. That the Planning Act state that, in a rural municipality, no subdivision shall be approved until the Minister of Transportation or his official has approved the design, layout and construction specifications of all public streets and roads in or abutting the subdivision.

8. That the Planning Act allow a council, with the approval of the Minister of Municipal Affairs, to pass a municipally administered subdivision by-law.

9. That the Planning Act state that a municipal subdivision by-law shall incorporate the procedures and requirements set out in the Minister's regulations and may also include some or all of the following:

    - general provisions with respect to the layout and design of subdivision including:

        - areas to be reserved for public purposes and providing that the council may determine the location and shape of the areas.
        - minimum lot frontage and building lines,
        - size and shape of lots and blocks,
        - width, location and gradients of municipally maintained streets and roads.

    - standards and requirements regarding the construction of streets and installation of services as currently dealt with in subdivision by-laws as well as requirements respecting the construction of walkways.

    - requirements that the subdivider provide open space or a cash in lieu equivalent at the time of subdivision.

    - requirements regarding the certification of certain plans of subdivision by a professional engineer.

10. That the Planning Act require a municipal council prior to the adoption amendment or repeal of a subdivision by-law to advise the public in the area affected of its intention by means of a newspaper advertisement. The advertisement shall state where by-law can be inspected, invite written comments and must be placed in the newspaper at least 30 clear days before the date set down by council to hear the matter.

11. That the Planning Act enable a council, to the extent required to carry out the intent and policies of its adopted municipal planning strategy, to restrict the number of lots a person may create by plan of subdivision in any one year.

12. That the Planning Act permit a council, in its subdivision by-law to require a subdivider to deed to the municipality for park, playground and public purposes such area of land or cash in lieu of equivalent value as is stipulated in its planning strategy. In no case should the area of land dedicated exceed 10% of the total area shown on a final plan of subdivision.

13. That the Planning Act restrict open space dedications required of a subdivider, by a subdivision by-law, to a maximum of 5% of the area shown

on a final plan or cash in lieu of equivalent value where the matter of open space dedications has not been addressed in an approved municipal planning strategy.

14. That the Planning Act state that the sum of money to be contributed as cash in lieu of a dedication of land for open space shall be based on fair market value after final approval has been given to the plan of subdivision.

15. That the Planning Act permit a council to use cash contributions both for acquisition of and capital improvements to park, playground and public open space areas.

16. That the Planning Act permit a council to accept dedications of land owned by an applicant but located outside the area shown on a final plan of subdivision.

17. That the Planning Act state that open space dedication requirements will be calculated on the basis of the area shown on a final plan of subdivision, excluding public streets and roads.

18. That the Planning Act require a municipal council upon passing a subdivision by-law to appoint one or more development officers to administer the subdivision by-law, who shall be the development officer (s), of the district planning commission, if any, in which the municipality participates.

19. That the Planning Act establish that within 30 days of receiving a completed application for approval of a tentative plan of subdivision and the necessary information required to evaluate the application, the development officer shall notify the applicant in writing of all approvals received and list those agencies which require further information or have difficulties with the plan as submitted.

20. That the Planning Act require a decision of a development officer, at the request of the applicant, to be in writing. Where a development officer refuses an application for subdivision approval any written decision shall contain reasons for the refusal.

21. That the Planning Act provide that a municipality or the provincial government, as the case may be, shall be party to any actions in a court of law concerning the giving of advice or the decision of a development officer under the Act.

22. That the Planning Act require applications for approval of a tentative plan of subdivision to include information regarding the proposed use of all lots and blocks shown on the plan.

24. That the Planning Act establish that a person whose tentative plan has been approved by the development officer may proceed in one or more stages to lay out streets, blocks, lots and land for public purposes, and

such utilities and services as would be in accordance with the tentative plan and that where the applicant has met the requirements of the subdivision by-law, a municipal unit will not withhold approval of a final plan which generally conforms to an approved tentative plan.

24. That the Planning Act limit the right of appeal with respect to subdivision to the applicant who may appeal the decision of a development officer to refuse to approve a tentative plan of subdivision.*

25. That the Planning Act provide that the approval of a tentative plan of subdivision will lapse after two years if no subsequent application for approval of a final plan is made.

26. That the Planning Act require all plans of subdivision be stamped by the development officer to indicate what approvals have been granted prior to filing in the Registry of Deeds.

27. That the Planning Act require that a development officer or other appointed municipal official be responsible for the filing of all plans of subdivision in the appropriate Registry of Deeds. However, a plan shall only be filed with the authorization of the applicant.

28. That the Planning Act permit a municipal council to include in its subdivision by-law a fee schedule for the processing and subsequent filing in the Registry of Deeds of all plans of subdivision.

29. That the Planning Act set out those procedures or requirements from which an application for subdivision approval may be exempted where so provided in a municipal subdivision by-law.

30. That the Planning Act not include provisions which would permit a development officer to grant a minor variance to the dimensional standards in a zoning by-law.**

31. That the Planning Act recognize lot consolidation, in order that the process of consolidating lots may be subject to municipal approval.

SUPPORTING RECOMMENDATIONS:

1. That the Attorney General's Department identify other types of transactions that could result in the subdivision of land, such as long term leases, which may require consideration in the Planning Act.

---

* Reinstates a limited right of appeal with respect to subdivision. As with development permits under a zoning by-law, the applicant would be permitted to appeal the decision of the development officer where he refused to approve a tentative plan of subdivision.

**Reflects responses to the Interim Report which felt that minor variance of lot size, and frontage requirements for subdivision was undesirable as it encouraged substandard lots.

2. That the provincial government give consideration to ways of reducing the cost of a legal survey.

3. That the provincial government bring in legislation enabling the Department of Health and the Department of Environment to approve, require modification to, or refuse applications for subdivision approval and provide the staff and financial assistance needed to carry out such mandate before amendments are made in the Planning Act which would enable municipal units to refuse plans of subdivision on the recommendation of the Departments of Health and Environment.

4. Where no municipal subdivision by-law is in effect, a person subdividing land should be required to deposit a bond with the Department of Transportation to ensure that roads in rural municipalities approved by Department of Transportation at the design stage will in fact be constructed to standards acceptable for takeover and maintenance by the Department.

5. That the Department of Transportation give consideration to reviewing and amending its road design and construction standards in order that regional department officials can sit down with municipal staff and determine, on a case by case basis, whether road standards in proposed plans of subdivision are suitable for the function for which they are intended; such as local residential streets, major collector, commercial traffic route, and so on.

6. That the Department of Transportation give consideration to accepting other than a certified cheque as security in lieu of actual road construction.

7. That the Attorney General take steps to ensure that Registrars of Deeds will not accept for filing plans of subdivision which have not been approved and endorsed by the appropriate officials.

8. Provincial development officers should have their offices in the area of the Province for which they are administering subdivision regulations.

9. That development officers be required to coordinate and assume responsibility for the circulation of subdivision plans to various departments and agencies involved in the approval process.

10. That the Department of Municipal Affairs continue its practice of providing training and development courses to assist in upgrading the knowledge and skills of development officers.

11. Councils concerned about maintenance costs of recreational areas should consider entering into agreements enabling community or recreations associations to assume responsibility for the upkeep of park areas. The practice of deeding open space areas over to neighbourhood groups could result in public lands in effect becoming exclusive neighbourhood parks and should therefore be discouraged.

## PRIVATE ROADS

A rural municipality which wishes to allow the subdivision or development of land along a private road should be permitted to do so provided that the the alignment and right-of-way of the proposed road meet the standards of the Department of Transportation. If at some point in the future a request, supported by the municipality, is received by the Department of Transportation to assume maintenance and ownership of these roads, the municipality should also accept responsibility for ensuring that the road is upgraded to DOT standards, after which the road could be taken over by the Department and maintained as any other public road for which the Department of Transportation is responsible.

## PLANNING ACT RECOMMENDATIONS:

1. That the Planning Act permit a rural municipality to allow subdivision along a private road provided that the municipality enters into an agreement with the Department of Transportation whereby the municipality accepts responsibility for ensuring that the road is upgraded to DOT standards, should the Department receive a municipally supported request to have the road listed.

2. That the Planning Act permit a municipal council to recover from abutting landowners the cost of upgrading a private road to Department of Transportation standards.

## PLANNING APPEALS

Since beginning the Planning Act review process the provincial government has passed the Municipal Board Act, which establishes the Nova Scotia Municipal Board (NSMB). The duties of this Board will include hearing planning appeals arising from decisions made under the Planning Act.

The creation of this full-time Board which will have a permanent office and staff is consistent with recommendations set out in PARC's Interim Report. However, the establishment of the NSMB does not fully address the concern expressed during the review over delays in obtaining dates for hearings and the length of time required by the present Provincial Planning Appeal Board to issue decisions after hearings are held. To overcome these delays, the new Board should be required to hear an appeal within 60 days unless all parties to the appeal agree to an extension. Decisions should be handed down within 30 days from the date of a hearing where no briefs are filed or within 30 days from the filing of briefs, which ever date is last.

The reader will note that PARC recommends that the more restrictive "aggrieved person" be substituted for provisions in the current Planning Act which permit "any interested person" to appeal certain decisions under the Act. This final recommendation reflects responses to the Interim Report which urged that measures be taken through legislation to discourage individuals from launching an appeal to harass or delay a proposed development. It was the feeling of those who addressed this issue that malicious appeals placed an undue financial burden on development proponents and that such abuse should be prevented. The Committee cannot support the concept of 'awarding costs' but suggests that the Board scrutinize appeals when filed to ensure that those who take such action are doing so for bona fide reasons.

## PLANNING ACT RECOMMENDATIONS

1. That the Planning Act establish that the following decisions are appealable to the Municipal Board:

   The refusal to approve a development where provincial land use regulations are in effect may be appealed by the applicant.

   The refusal to issue a development permit where a zoning by-law is in effect may be appealed by the applicant.

   The amendment, revision, or repeal of a zoning by-law may be appealed by:
   - an aggrieved person
   - the Director of Planning
   - the council of each adjoining municipality

   Refusal to amend or repeal a zoning by-law may be appealed by the applicant.

The passing of a resolution to enter into an agreement to permit a contract development or a development under a comprehensive development district may be appealed by:

- an aggrieved person
- the Director of Planning
- the council of each adjoining municipality

The approval of or refusal to approve the alteration, extension, enlargement or recommencement of a non-conforming use or reconstruction of a non-conforming builidng may be appealed by:

- the applicant
- an aggrieved person

The refusal to approve a tentative subdivision may be appealed by the applicant.

The refusal to approve a lot consolidation may be appealed by the applicant.

2. That the Planning Act establish that the following decisions are appealable to council:

The refusal to grant a minor variance may be appealed by the applicant.

The granting of a minor variance may be appealed by a person who owns property abutting the land subject of the application for a minor variance.

3. That the Planning Act establish the following appeal periods:

The refusal to approve an application pursuant to a provinical land use regulation may be appealed within 15 days of the decision of the provincial development officer.

The refusal to issue a municipal development permit may be appealed within 15 days of the decision of the development officer.

The amendment, revision or repeal of a zoning by-law may be appealed within 15 days of the notice in the newspaper advising that the council has passed a by-law amending, revising, or repealing its zoning by-law.

The refusal to amend or repeal a zoning by-law may be appealed within 15 days of the decision of council.

The passing of a resolution to enter into an agreement to permit a contract development or comprehensive development district may be appealed within 15 days of the notice in the newspaper advising that council has passed the resolution.

The refusal to approve the alteration, extension, enlargement, recommencement or reconstruction of a non-conforming use or a non-conforming building may be appealed within 15 days of the decision of council.

The approval of the alteration, extension, enlargement, recommencement or reconstruction of a non-conforming use or a non-conforming building may be appealed within 15 days of the notice in the newspaper advising of the approval.

The refusal to approve a tentative plan of subdivision may be appealed within 15 days of the decision of the development officer.

The refusal to approve a lot consolidation may be appealed within 15 days of the decision of the development officer.

The refusal to grant a minor variance may be appealed within 15 days of the decision of the development officer.

The granting of a minor variance may be appealed by an abutting assessed owner within 15 days of the date of certified mailing or personal service to abutting owners advising them of the decision.

The issuance or refusal to issue a demolition permit may be appealed within 15 days of the decision of the development officer.

SUPPORTING RECOMMENDATIONS:

1. To give the Board a balanced perspective, its members should come from a variety of backgrounds.

2. That the Municipal Board regulations require that the following people be notified when an appeal has been filed, withdrawn or decided.

    1. The appellant
    2. The assessed owner of the land when the owner is other than the appellant
    3. The Development Officer of the Municipality
    4. The Clerk of the Municipality
    5. The Director of Planning for Nova Scotia

3. That Clerk of the Board assume responsibility for the publication of newspaper notices where they are considered necessary. A reasonable deposit to cover advertising costs should accompany any Notice of Appeal.

4. That the Board make full use of its mandate to seek out all facts and relevant information during a planning appeal and that the Board assume responsibility for expenses where it feels such additional information is necessary.

5. That principles of planning reflected in the decisions of the Provincial Planning Appeal Board be used as the basis for guidelines to be set out in the Municipal Board Act to enable the Municipal Board in a planning appeal to interpret in any fact situation what is "in the best interests of the municipality".

## PUBLIC PARTICIPATION AND INFORMATION

Public involvement is essential to successful planning, and is more than simply the efficient dissemination of information. It involves a two-way flow of communication in a relationship where elected officials and citizens know that the public can affect the formulation of policy while the municipal council or other legislative body retains the responsibility for decisions and is accountable for them.

To be effective, public participation procedures must be geared to specific situations and there is a variety of factors which influence and determine the best method in any specific planning exercise. Some of these factors are: scope of the planning exercise, geographic size of the planning area, size of the population, range of physical, social, and economic issues, previous experience in public involvement, the presence of active voluntary associations interested in planning and available funding.

In order to establish the rights of the public to participate in planning matters, those rights must be spelled out in the Planning Act. At the same time it must be recognized that no one mechanism could possibly be defined in legislation which would satisfy all situations and that effective public participation must go well beyond the letter of any law.

While the Act can set out legislative minimums, the actual procedures for consulting and involving the public should be locally determined.

### PLANNING ACT RECOMMENDATIONS:

### PROVINCIAL PLANNING

That the Planning Act require that the provincial govenment (Cabinet) provide opportunity for the public to examine, be informed on and comment on proposed provincial land use policies.

That the Planning Act provide for the publication and circulation of adopted provincial land use policies.

That the Planning Act delegate responsiblity for informing and consulting with affected municipalities and the public to the Minister of Municipal Affairs.

That the Planning Act permit the provincial government, where no municipal planning strategy or zoning by-law is in effect, and subject to the same consultative procedures as must precede the adoption of a provincial land use policy, to establish such provincial land use regulations as may be necessary to implement the policy.

That the Planning Act require the Minister where he has amended a municipal planning strategy and zoning by-law in conformity with a provincial land use policy, to place an advertisement in a local newspaper for the purpose of informing the public of the amendments.

That the Planning Act establish procedures for reviewing, amending and repealing provincial land use policies and regulations in consultation with affected municipalties and the public consistent with procedures for the adoption of same.

That the Planning Act require the Minister of Municipal Affairs to file copies of provincial land use policies and any accompanying regulations in the Registry of Deeds for each registration district affected by the policy.

That the Planning Act require the Minister to place copies of each provincial land use policy and any accompanying regulations in the offices of each municipality affected by the policy.

## MUNICIPAL PLANNING

That the Planning Act state that the purpose of a municipal planning strategy is. . .

> "to establish policies concerning the role of the public in determining community goals and objectives and in the implementation of the planning strategy."

That the Planning Act state that a municipal planning strategy shall include statements of policy with respect to some or all of the following. . .

> "Measures for informing and securing the views of the public regarding contemplated planning policies and actions or regulations arising from such policies."

That the Planning Act require a municipal council, before preparing a municipal planning strategy, to adopt by resolution a public participation program.

That the Planning Act require a municipal council, prior to the adoption of a public participation program to

- notify the public of its intention to adopt a public participation program, outlining the purpose of the program and where further information regarding the program is available.

- hold a public hearing to receive comments on the proposed public participation program.

That the Planning Act provide for reasonable public access to background information and studies produced during a municipal planning program.

That the Planning Act require a council, during the preparation of a municipal planning strategy, to hold public meetings for the informal discussion and exchange of information and also to hold formal hearings at which oral and written submissions regarding the proposed planning strategy are received and considered.

That the Planning Act require, in those instances where the Minister feels that substantial changes must be made in a plan after it has been presented to the public, that a further public hearing be held by the Minister to consider such changes prior to his approval of the plan.

That the Planning Act require the Minister, where he makes changes to a plan to submit a written explanation for the change with the document at the time of its approval.

That the Planning Act require a council to review its municipal planning strategy every five years and to establish a public participation program and hold such meetings and hearings as would have preceded the initial adoption of the strategy.

That the Planning Act require a copy of a municipal planning strategy and any subsequent amendments to be filed in the Registry of Deeds.

PLANNING ADVISORY COMMITTEES

That the Planning Act state that the composition of planning advisory committees shall be at the discretion of council, but shall include both council members and residents of the community.

That the Planning Act require notices setting out the agenda of a planning advisory committee meeting to be posted in municipal offices prior to each meeting.

That the Planning Act state that all meetings of a PAC shall be open to the public but permit a planning advisory committee, by a majority vote of the members present, to move a meeting in camera.

That the Planning Act require the following information to be made available at cost to the public upon request:

- agenda of the planning advisory committee
- reports to the planning advisory committee, other than the opinion or report of a lawyer, after they have been submitted to the committee
- minutes of the planning advisory committee after they have been approved.
- reports of the planning advisory committee after they have been submitted to council.

That the Planning Act enable a council on the recommendation of a PAC to establish area advisory committees which would liaise between local residents and the PAC with respect to planning matters affecting municipal unit generally and the local area specifically.

ZONING BY-LAWS

That the Planning Act provide where an application to change the zoning of a particular property is made by other than the assessed owner, that the development officer shall notify the owner of the application.

That the Planning Act require a council to hold a public hearing and receive written and oral submissions before adopting, amending or repealing a zoning by-law.

That the Planning Act require a council, prior to the public hearing to place two advertisements in a newspaper circulating int he area affected, the first notice to be published at least 30 clear days prior to the date set down for the public hearing and the second no more than 15 clear days but no less than 7 clear days before the hearing.

That the Planning Act set out that the newspaper advertisements shall include:

- a statement of the purpose of the proposed by-law or amendment.

- the name of one or more places where a copy of the proposed by-law and any reports and documents to which a person is entitled under the Planning Act may be inspected by the public.

- the date or dates, places and times the council will hold a public hearing with respect to the proposed by-law or amendment.

- the procedure to be followed by anyone wishing to be heard at the public hearing and the procedure by which the hearing will be conducted.

That the Planning Act establish, where a council decides not to amend or repeal its zoning by-law as requested and does not proceed with a public hearing to consider the matter that the applicant may appeal to the municipal board and that the board shall only decide the appeal after it has held an advertised public hearing in the municipality where the site subject to the appeal is located. The timing and content of the advertisement is to be the same as would be required under the Act prior to the adoption, amendment, revision or repeal of the zoning by-law by council.

That the Planning Act require the development officer, where a minor variance is granted to notify abutting property owners by certified mail or personal service within seven clear days of the granting of the variance.

That the Planning Act require a development officer, at the request of the applicant, to give written reasons for his refusal to issue a development permit under a zoning by-law.

That the Planning Act require a development officer, when requested, to given written reasons for an approval or refusal by him with respect to a minor variance.

CONTRACT ZONING & COMPREHENSIVE DEVELOPMENT DISTRICTS

That the Planning Act require a council, before passing a resolution to enter into an agreement to permit development under contract zoning or a comprehensive development district to notify the public and hold a public hearing to discuss the proposal before signing the agreement.

That the Planning Act set out notificiation and public hearing procedures which are the same as for an amendment to a zoning by-law and require that an outline of the effects of any contract or agreement be available for public scrutiny prior to the hearing.

That the Planning Act require a council to follow the same public notification and hearing procedures when making substantial changes to, or terminating a signed agreement, as those which apply to the initial agreement.

NON-CONFORMING USE

That the Planning Act set out the same public notification and hearing procedures as would be followed for a zoning by-law amendment where a council, under its municipal planning strategy, permits the alteration, extension, enlargement, recommencement or reconstruction of a non-conforming use or a non-conforming building.

DISTRICT PLANNING COMMISSIONS

That the Planning Act state that a district planning commission shall promote interest in the activities of the commission and shall establish procedures for involving member municipal councils and the public in planning matters.

That the Planning Act require notices setting out the agenday of a district planning commission meeting to be posted in the municipal offices of each participating council prior to each meeting.

That the Planning Act state that all district planning commission meetings are open to the public but permit a DPC by a majority vote of members present to move a meeting in camera.

That the Planning Act require the following information to be made available at cost to the public upon request:

- agenda of the DPC
- reports to the DPC other than the opinion or report of a lawyer, a financial or personnel report, after they have been submitted to the commission

DISTRICT PLANNING COMMISSIONS

- minutes of the DPC after they have been approved

- reports of a DPC after they have been submitted to the councils of the participating units

INTER-MUNICIPAL PLANNING

That the Planning Act state that where the participating councils decide to establish a special joint planning advisory committee for the purpose of advising them on the preparation of an inter-municipal strategy, the composition of the JPAC is at the discretion of the participating councils but shall include both councillors and residents. As with DPC's and PAC's, all JPAC meetings and reports arising from the meetings should be accessible to the public

That the Planning Act set out the same procedures for notifying and involving the public with respect to the preparation, adoption, amendment, revision, review and repeal of an inter-municipal planning strategy, as those required for a municipal planning strategy.

That the Planning Act require, in those instances where the Minister feels that substantial changes must be made in an inter-municipal strategy after it has been presented to the public, that a further public hearing be held by the Minister to consider such changes prior to his approval of the strategy.

That the Planning Act require the Minister, where he makes changes to a strategy to attach a written explanation for the change to the document at the time of its approval.

That the Planning Act require a copy of an inter-municipal planning strategy and any subsequent amendments to be filed in the Registry of Deeds.

SUBDIVISION

That the Planning Act require the Minister, by means of a newspaper advertisement, to advise the public in the area affected of his intention to prescribe, amend or repeal his subdivision regulations. The advertisement shall state where the regulations can be inspected, invite written comments and be placed in a newspaper circulating in the area at least 30 days before the regulation or amendment takes effect.

That the Planning Act require a municipal council prior to the adoption, amendment or repeal of a subdivision by-law to advise the public in the area affected of its intention by means of a newspaper advertisement. The advertisement shall state where the by-law can be inspected, invite written comments and be placed in the newspaper at least 30 days before the date set down by council to hear the matter.

That the Planning Act require a decision of a development officer, at the request of the applicant to be in writing. Where a development officer refuses an application for subdivision approval, any written decision will contain the reasons for the refusal.

That the Planning Act require that all plans of subdivision be stamped by the development officer to indicate what approvals have been granted prior to filing in the Registry of Deeds.

That the Planning Act require that a development officer or other appointed municipal official be responsible for the filing of all plans of subdivision in the appropriate Registry of Deeds.

SUPPORTING RECOMMENDATIONS:

1. That the amount of cross-referencing in the Planning Act be kept to a minimum and that provisions of the Planning Act be set out in an orderly manner.

2. That a table of contents and index be prepared for the Planning Act.

3. That the Department of Municipal Affairs publish materials and information aimed at informing the public about planning generally, and planning issues in Nova Scotia specifically. A layman's guide to the Planning Act should be a priority.

4. That copies of municipal plans and zoning and subdivision by-laws either approved or under discussion, be available to the public at cost at all municipal offices.

5. That all provincial regulations relating to the development of land be made available to the public for consideration and comment before they are put into effect. Once in effect, they should not be amended or revised without adequate notice and provision for comment by those affected.

6. That councils and staff include the public in discussions of any planning program in order that requests for financial assistance may be taken into consideration when determining the budget of the proposed program. Assistance should be provided in such a way as not to prejudice the independence of community or citizen groups.

7. That planners and development offices appreciate that their attitudes towards the public and the effort they put into helping people who come forward for information or assistance will probably contribute more to the public perception of planning than any amount of organized promotion.

8. That the onus be on planners to translate technical information into language and terms which are easily understood by the general public.

9. That planners and others to whom the community turns to for advice and guidance on planning recognize that there is an obligation on their part to carefully and realistically explain what planning can and cannot achieve.

10. That greater use be made of community service bulletins on radio and in local newspapers to inform the public of planning matters under consideration.

11. That municipal units incorporate the use of signs as a requirement of the application process. Standard notification signs could be available at the time of application and costs in providing the signs could be taken into consideration when setting out application fees. The sign could be posted in a visually prominent location on the site. It would outline the intended use of the site should the application be approved and where further information is available.

## INTERGOVERNMENTAL ISSUES

During the course of the review, there were some issues consistently brought to the Committee's attention. PARC attempted to address these matters in its Interim Report.

Specifically, PARC was asked to examine and make recommendations to deal with problems associated with public water supply, pits and quarries, shopping centres, shoreline subdivision and development, heritage preservation and large scale developments.

Recommendations in this report under "Provincial Planning" and "Municipal Planning" will permit each level of government to establish policies and regulations to define and protect its respective interests with regard to these land use issues. However, many of the problems associated with these issues cannot be solved by the Planning Act alone. Furthermore, the resolution of these problems requires the coordinated effort of both the provincial and municipal governments.

### PUBLIC WATERSUPPLY*

The protection of public water supplies requires the co-orperation of both the provincial government and its municipalities. It also requires more than planning legislation.

The provincial government under the Planning Act will be able to set out its policies with respect to the protection of public water supply areas. In turn, the municipalities will be able to address the use of land in designated water supply areas through policies set out in a municipal planning strategy and zoning by-law. However, in many instances the protection of water supplies requires the proper management of watershed lands. These management programs can only be effectively carried out through the co-operation of the two government levels in consultation with affected land owners.

In those situations where a municipality's source of potable water lies outside its boundaries and no inter-municipal co-operation is evident, the Planning Act would permit the province through a statement of land use policy and accompanying regulations to secure such water supplies. However, even this action requires inter-governmental co-operation and the involvement of land owners if designated areas are to be effectively managed.

Similarly the effective management of floodplains requires an inter-disciplinary and inter-governmental approach before it is possible to take full advantage of avenues available to the provincial government and the municipalities under the Planning Act.

### PITS AND QUARRIES:

The mineral resources of the Province are subject to the Mineral Resources Act; however, the location of pits and quarries is a local concern and a municipal council should be able to decide whether or not such operations should be permitted within or near communities within its jurisdiction. Earlier recommendations in this report under 'Municipal Planning' and 'Zoning By-laws' will enable a council to establish standards and requirements with respect to the location of pits and quarries within their respective boundaries.

---

*PARC acknowledges responses to the Interim Report which were critical of the report's recommendations with regard to surface water supply watersheds. It was felt by those who responded that the proposals put forward would discourage intermunicipal co-operation. The Committee has not carried these recommendations forward in its final report.

## SHOPPING CENTRES

The real concern in this particular issue appears to be less one of the land use than the cumulative economic effect that a proliferation of shopping centres could have on the Province's established commercial base.

Recommendations in this report, if implemented, would permit a municipal unit wishing to address the implications of permitting shopping centres or any other commercial use within its own boundaries to do so through its municipal planning strategy and zoning by-law. Similarly, with co-operation two or more municipal units may, through the adoption of an inter-municipal planning strategy, establish policies and guidelines with regard to the location of shopping centres within their respective jurisdictions. Where some provincial interest is threatened by uncontrolled shopping centre development and where inter-municipal co-operation or concern is not evident, the provincial government would be able to establish such policies and regulations as it considers necessary.

## SHORELINE SUBDIVISION AND DEVELOPMENT

Prime responsibility for maintaining and protecting the quality of surface and ground water in Nova Scotia rests with the provincial government. Earlier recommendations in this report under "Provincial Planning" will enable the province to establish policies and such regulations as may be necessary to protect our lakes and streams from the adverse effects of seasonal and year round development.

Recommendations under "Municipal Planning" will permit municipal councils to establish policies and regulations with respect to shoreline development through their planning strategies and zoning by-laws and to designate shorelines within their boundaries where an environmental impact assessment would be required to accompany applications for certain types of development.

## HERITAGE PRESERVATION

The provincial government has enacted legislation to protect heritage property in Nova Scotia. However, a municipality which wishes to address the protection of heritage properties through its planning strategy and zoning by-law will be able to do so under the Planning Act if recommendations under "Municipal Planning" and "Zoning By-laws" are implemented.

## LARGE SCALE DEVELOPMENTS

In light of recent development trends in the Province it is critical that procedures be developed for evaluating the environmental, social and physical implications of large scale developments, both public and private, before they are permitted to locate in Nova Scotia.

Requirements for assessing the impact of large scale developments such as tidal power projects, offshore oil and natural gas, mining operations and major industrial developments must recognize the rights of the public to obtain information arising from such procedures and to use such information that they may effectively respond to proposals under consideration.

Steps must be taken now by the provincial government to ensure that mechanisms are in place to safeguard the Province against the detrimental social and environmental consequences so often associated with the type of economic opportunities which may be realized in Nova Scotia over the

next decade. However, PARC is of the opinion that the development of impact assessment procedures demands a high level of expertise not available within the Committee and is of sufficient interest and broad consequence to warrant separate and thorough examination.

Cabinet, as a matter of high priority, must establish a task force comprised of representatives of the provincial government, the municipalities, the public and affected interests to determine what shall constitute a large scale development; identify and visit potential sites for large scale developments; hold public meetings and receive written and oral submissions and to recommend to the provincial government for adoption through legislation, procedures for the assessment of the physical, environmental, social and economic implications of large scale developments, both public and private.

## ADMINISTRATIVE AMENDMENTS

During the course of the review, the Committee received a number of suggestions with respect to administrative amendments which were felt to be needed. Most involve changing one or two words in various sections of the present Planning Act.

Some of these amendments would change the wording of a specific Section of the Act to make its intent clearer or consistent with related procedures set out under another Sections(s). An example of this type of amendment was the suggestion that "it should be clarified that the 'by-law' referred to in Section 35(1) refers to a 'resolution' passed under Section 33(2)(b)".

Another suggestion was that either 'day' or 'clear day' be used consistently through-out the Planning Act and, if possible, be defined.

Penalties under the present Act should also be up-dated.

In some instances, the implementation of PARC's broader recommendations will indirectly resolve what is currently viewed as a "housekeeping" problem. For example, the suggestion that that word 'may' in Section 4 of the present Planning Act be changed to 'shall' thereby making consultation mandatory during the preparation of a regional plan will no longer be a matter for consideration if regional planning is discontinued.

Rather than list each section of the present Act and note the housekeeping or administrative points that should be taken into consideration when a new Planning Act is written PARC refers those who will be responsible for drafting the new legislation to its files and correspondence.

## RECOMMENDATION

That the Department of Municipal Affairs make any draft legislation available to interested parties for review and comment, prior to its introduction in the House of Assembly.

## APPENDICES


Terms of Reference ..... iii

Members ..... v

Staff ..... vii

Public Meetings ..... ix

Written Submissions ..... xi

Responses ..... xvii

Background Material ..... xix

Headings: Final Report/Interim Report ..... xxi

# PLANNING ACT REVIEW COMMITTEE

## TERMS OF REFERENCE

1. To review the Planning Act, S.N.S., 1969, C. 16 as amended.

2. To become sufficiently familiar with the Planning Act specifically and related planning matters generally, in order to respond to queries about the present Planning Act and to stimulate response to the existing situation.

3. To hold a series of sessions commencing in the fall of 1979 to which municipal councils, administrators, interested groups and associations and the general public will be invited to meet with Committee members to discuss the Planning Act and any related matters which may be of concern.

4. To receive and give due consideration to written briefs which may be forwarded to the Committee.

5. To submit a written report to the Minister of Municipal Affairs based on information obtained during the review and the Committee's deliberations.

   The report shall include a synthesis of the impressions collected and a definition of the problems with the present Planning Act. It may also include recommended legislation.

## PLANNING ACT REVIEW COMMITTEE

### - MEMBERS -

BRENDA SHANNON, CHAIRMAN
Former Alderman, City of Halifax
appointed by the Union of Nova Scotia Municipalities

JOHN K. MACDONALD, VICE CHAIRMAN
Councillor, Town of Antigonish
appointed by the Union of Nova Scotia Municipalities

ROBERT SHAW
General Manager, Clayton Developments Limited
appointed by the Housing and Development Association of Canada (HUDAC), Nova Scotia

PETER MCDONOUGH
Lawyer, McInnes Cooper and Robertson
appointed by the Nova Scotia Barristers' Society

CAROLYN MACGREGOR
Resident, Halifax
appointed by the Community Planning Association, Nova Scotia

GLEN L'ESPERANCE
Development Officer, City of Dartmouth
appointed by the Development Officers Association of Nova Scotia

ROBERT ELLIOT
Director of Planning, Municipality of the County of Kings

THOMAS R. YOUNG
Mayor of North Sydney
Vice Chairman, Cape Breton Metropolitan Planning Commission

KENNETH MEECH
Chief Administrative Officer, Municipality of the County of Halifax
appointed by the Association of Municipal Administrators, Nova Scotia

JOHN DECHMAN
Chairman, Voluntary Planning's Planning Act Review Committee
appointed by Voluntary Planning

ROYAL PETTIGREW
As a member of the Municipality of the County of Colchester Municipal Council, the late Mr. Pettigrew was appointed to the Planning Act Review Committee by the Union of Nova Scotia Municipalities.

SHERMAN ZWICKER
Former Mayor of the Town of Lunenburg and past chairman of the Lunenburg County District Planning Commission, chaired the Planning Act Review Committee until April 1980. Mr. Zwicker retired from the Committee when appointed Executive Director of the Union of Nova Scotia Municipalities.

## PLANNING ACT REVIEW COMMITTEE

- STAFF -

Gerrie Masters, Executive Secretary
Director, Policy Development and Research
Department of Municipal Affairs, N.S.

Janet Willwerth, Legal Advisor
Solicitor
Department of Municipal Affairs, N.S.

## PLANNING ACT REVIEW COMMITTEE

- PUBLIC MEETINGS -

| | | | |
|---|---|---|---|
| (1979) | October | 1 | Municipal Council Chambers, Digby |
| | " | 2 | Nova Scotia Survey Institute, Lawrencetown |
| | " | 3 | Recreation Centre, Kentville |
| | " | 4 | Council Chambers, Civic Building, Windsor |
| | " | 10 | Municipal Council Chambers, Milford, East Hants |
| | " | 11 | Keddys Motor Inn, Truro |
| | " | 22 | Royal Canadian Legion, Branch No. 87, Caledonia |
| | " | 23 | Fire Hall, Mahone Bay |
| | November | 6 | Court House, Baddeck |
| | " | 7 | SAERC, Port Hawkesbury |
| | " | 8 | St. Peters United Church Hall, St. Peters |
| | " | 20 | Heather Motel, Stellarton |
| | " | 21 | Royal Canadian Legion, Arras Branch, Antigonish |
| | " | 22 | Municipal Council Chambers, Sherbrooke |
| | " | 22 | Fire Hall, Guysborough |
| | " | 26 | Musquodoboit Harbour, Halifax County |
| | " | 27 | Sackville, Halifax County |
| | " | 28 | Council Chambers, Dartmouth |
| | " | 29 | St. James Church, Halifax |
| | " | 30 | St. James Church, Halifax |
| | December | 10 | Grand Hotel, Yarmouth |
| | " | 11 | Town Offices, Shelburne |
| | " | 12 | Lions Centre, Liverpool |
| (1980) | January | 21 | College of Cape Breton |
| | " | 22 | College of Cape Breton |
| | " | 29 | Hotel Nova Scotian, Halifax |
| | " | 30 | St. James Church Hall, Halifax |
| | " | 31 | St. James Church Hall, Halifax |

## PLANNING ACT REVIEW COMMITTEE

### - WRITTEN SUBMISSIONS -

1. Town of Lunenburg
2A Annapolis County District Planning Commission
2B Annapolis County District Planning Commission
2C Annapolis County District Planning Commission
3. Town of Middleton Planning Advisory Committee
4. Town of Annapolis Royal
5. Annapolis Valley Historical Society
6. Kentville Planning Advisory Committee
7. Wolfville Planning Advisory Committee
8. Kentville Developments Ltd.
9. Glenn Ells, Canning, Nova Scotia
10. Windsor-West Hants JPAC
11. Pork Producers Association of Nova Scotia
12. Alam Demb, Director, Lunenburg County District Planning Commission
13. Robert W. Downie, Chester
14. D. M. Armstrong, Annapolis
15. Municipality of the District of East Hants
16. Town of Truro
17. Municipality of the County of Colchester
18. West Colchester Rural Development Association
19. Nova Scotia Federation of Agriculture
20. Hank Niesten, Bras D'Or, Cape Breton County
21. Donald Taylor, Lunenburg County Barristers' Society
22. Lunenburg County Federation of Agriculture
23. Municipality of the District of Lunenburg
24. Lunenburg/Queen's Land Owners and Developers Association
25. Stewart Bishop, Director of Planning and Development, Municipality of the County of Colchester
26. Impact of Shopping Centres on Downtown Nova Scotia
27. Nova Scotia Housing Commission - Industry/Housing Committee

- WRITTEN SUBMISSIONS -
(continued)

28. Lunenburg Heritage Society
29. Elliot Marshall, Glace Bay
30. Town of Port Hawkesbury
31. Mabou Gaelic and Historical Society
32. Nova Scotia Housing Commission
33. CPAC Resolution re: Shopping Centre Moratorium
34A Honourable Harry W. How, Attorney General, Nova Scotia
34B Honourable Harry W. How, Attorney General, Nova Scotia
35. H. D. Boyce, Hub Electric Ltd.
36. Maritime Logging Ltd.
37. Committee on Heritage Protection, Nova Scotia
38. Pictou County District Planning Commission
39. Hank Howard, Scott Paper Company
40. Municipality of the County of Pictou
41. Town of Antigonish
42. Dr. William Gillis, MLA Antigonish
43. M. E. Donovan, Solicitor, City of Halifax
44. Frank Stevens, Chairman, Concerned Citizens of the Eastern Shore and Musquodoboit Valley
45. Harry Weldon, Member, Concerned Citizens of the Eastern Shore and Musquodoboit Valley
46. Harvey Fraser, Member, Concerned Citizens of the Eastern Shore and Musquodoboit Valley
47. City of Dartmouth
48. South Shore Real Estate Board
49. Mike Marshall, Resident, Dartmouth
50. Dartmouth Chamber of Commerce
51. Bel Ayr Park Residents Association, Dartmouth
52. Concerned Citizens of Lawrencetown
53. Housing and Urban Development Association of Canada Nova Scotia Branch

## PLANNING ACT REVIEW COMMITTEE

- WRITTEN SUBMISSIONS -
(continued)

54. Cole Harbour Rural Heritage Society
55. Alan K. Connors, Resident, Dartmouth
56. Antigonish County Federation of Agriculture
57. Ward One Residents Association, Halifax
58. Cape Breton Metropolitan Planning Commission
59. Appraisal Institute of Canada, Nova Scotia Chapter
60. City of Halifax Board of Trade
61. Atlantic Planners Institute
62. Detailed Area Planning Committee No. 1, Halifax
63. Professor Robert Parker, MCIP, Nova Scotia College of Art & Design
64. Municipality of the County of Halifax
65. Don Mabey, Resident, Halifax
66. City of Halifax
67. Department of Social Services, Province of Nova Scotia
68. Association of Professional Engineers, Nova Scotia
69. Queens County Federation of Agriculture
70. NIP II Core Committee, Halifax
71. Moser River Board of Trade
72. Erwin Turner, NSLS, Bridgewater
73. Yarmouth County Historical Society
74. Municipality of Yarmouth
75. C.A.R.R.Y. Downtown Improvement Committee, Yarmouth
76. Town of Yarmouth, Planning Advisory Committee
77. Lloyd Churchill, Resident, Yarmouth County
78. Municipality of Clare
79. Municipality of Barrington
80. Queens Planning Advisory Committee
81. K. J. Kenny, Q.C., Kenny, Theakston & Allen; Bridgewater
82. Town of Bridgewater

## PLANNING ACT REVIEW COMMITTEE

- WRITTEN SUBMISSIONS -
(continued)

83. Milton Village Commissioners
84. South Queens Chamber of Commerce
85. John Thorpe, Resident, Lunenburg County
86. Antigonish Chamber of Commerce
87. Sandy Cameron, MLA, Guysborough
88. Cora Greenaway, Resident, Dartmouth
89. Alan MacDonald, P. Engineer
90. Mark Poirier, Resident, Halifax
91. Mayor Robert Angus, Amherst
92. M. Ircha, UNB (forwarded by V. Parrett, Chief Administrative Officer, Amherst)
93. Parrsboro Shore Historical Society
94. North Cumberland Historical Society
95. Bridgeport Basin Environment Committee
96. Nova Scotia Forest Products Association
97. Michael McCormick, Resident, Prime Brook
98. Donald Morrison, Resident, Sydney
99. Angus MacIntyre, Resident, Sydney
100. Old Sydney Society
101. North Sydney Historical Society
102. Cape Breton Barristers' Society
103. Cape Breton Federation of Agriculture
104. Bras D'Or Institute, College of Cape Breton
105. Amherst Downtown Development Corporation Limited
106. Union of Nova Scotia Municipalities
107. Premier's Task Force on Deregulation and Paperburden
108. Urban Development Institute (UDI)
109. Voluntary Planning
110. Cumberland District Planning Commission
111. Nova Scotia Housing Commission (see also No. 32)

## PLANNING ACT REVIEW COMMITTEE

- WRITTEN SUBMISSIONS -
(continued)

112. Community Planning Division, Department of Municipal Affairs, Nova Scotia
113. Nova Scotia Deputy Ministers Committee on Land Use Policy
114. Department of Environment, Nova Scotia
115. Association of Municipal Administrators, Nova Scotia
116. Silvia Hudson, Resident, Waverley, Halifax County
117. Department of Lands and Forests
118. Nova Scotia Land Surveyors
119. Norman Dale, Environmentalist
120. Nova Scotia and Halifax Wildlife Federations
121. Dan Eisenhauer, ABCO Properties
122. David Morgan, Resident, Halifax
123. K. W. Robb, NSLS, Dartmouth
124. Community Planning Association, Nova Scotia
125. Linda Christiansen-Ruffman, Phd., Sociologist
126. Frank Longstaff, NSLS
127. Heritage Trust
128. Michael Simmons, Halifax

## PLANNING ACT REVIEW COMMITTEE

### RESPONSES TO THE INTERIM REPORT

1. Jim Lotz, Halifax
2. Municipal Development Officers Association (Brief No. 129)
3. D. B. Morrison, Sydney (Brief No. 98)
4. Municipality of Barrington (Brief No. 79)
5. Brian Spicer, Development Officer, Cape Breton Metropolitan Planning Commission
6. Cape Breton Metropolitan Planning Commission (Brief No. 58)
7. Union of Nova Scotia Municipalities (Brief No. 106)
8. A. K. Connors, Dartmouth (Brief No. 55)
9. Milton Village Commissioners (Brief No. 83)
10. Cora Greenaway, Dartmouth (Brief No. 88)
11. D. Hardy, Town Administrator, Kentville
12. Kentville Planning Advisory Committee (Brief No. 6)
13. Cape Breton Federation of Agriculture (Brief No. 103)
14. Nova Scotia Housing Commission (Brief No. 32 and No. 111)
15. Annapolis County District Planning Commission (Brief No. 2A, B and C)
16. Nova Scotia Department of the Environment (Brief No. 114)
17. Middleton Planning Advisory Committee (Brief No. 3)
18. Town Clerk, Wolfville
19. Nova Scotia Federation of Agriculture (Brief No. 19)
20. Town of Wolfville (Brief No. 7)
21. Association of Nova Scotia Land Surveyors (Brief No. 118)
22. Halifax County Storm Drainage Task Force
23. Atlantic Planners Institute (Brief No. 61)
24. West Colchester Rural Development Association (Brief No. 18)
25. Commissioners of Public Hill (Brief No. 35)
26. Municipality of Annapolis County
27. Maurice Lloyd, Director, Community Planning Division (Brief No. 113)
28. Voluntary Planning (Brief No. 109)
29. Municipality of Lunenburg
30. Association of Professional Engineers of Nova Scotia (Brief No. 68)

## PLANNING ACT REVIEW COMMITTEE

### RESPONSES TO THE INTERIM REPORT

(continued)

31. David Morgan (Brief No. 122)
32. City of Halifax (Brief No. 66)
33. Heritage Trust of Nova Scotia (Brief No. 127)
34. Town of Bedford
35. R. Butler, Director, Nova Scotia Mainstreet Program
36. Colchester Municipality (Brief No. 17)
37. Municipality of Halifax (Brief No. 64)
38. F. L. Canavan, appointed member, E. Hants P.A.C.
39. Municipality of East Hants (Brief No. 104)
40. Town of Digby
41. Ruth Reed Wilson, Bras D'Or Institute (Brief No. 104)
42. Halifax Board of Trade (Brief No. 60)
43. Linda Christiansen-Ruffman (Brief No. 125)
44. Town of Yarmouth P.A.C. (Brief No. 76)
45. Baddeck Valley Review Committee
46. Pictou County District Planning Commission (Brief No. 38)
47. Department of Transportation, N.S.
48. Students, Nova Scotia College of Art and Design
49. Cumberland District Planning Commission
50. Urban Development Institute, Nova Scotia
51. Working Group of the Deputy Ministers' Committee on Land Use Policy
52. Anita Jackson, Student, NSCAAD
53. Association of Municipal Administrators, Nova Scotia
54. Ecology Action Center
55. Department of Mines & Energy, N.S.

# PLANNING ACT REVIEW COMMITTEE

## - BACKGROUND MATERIAL -

The material listed below is available on loan through the Department of Municipal Affairs Library. For further information, please contact:

Miss Audrey Manzer, Librarian
Department of Municipal Affairs
P.O. Box 216
Halifax, Nova Scotia
B3J 2M4

1. Written Submissions Received by PARC
2. Summary of Written Submissions Received
3. Verbatim Transcripts of PARC's Public Meetings
4. Interim Report: Planning Act Review Committee
5. Responses to the Interim Report
6. Summary of Responses Received
7. Final Report; Planning Act Review Committee

## -HEADINGS-

THE FOLLOWING TABLE IS INTENDED TO ASSIST THE READER IN RELATING MAJOR HEADINGS IN THE FINAL REPORT TO TOPICS IN PARC'S INTERIM REPORT


| FINAL REPORT: Major Headings | Page | INTERIM REPORT: Discussion Topic | Page |
|---|---|---|---|
| STATEMENT OF PURPOSE | 1 | The Planning Act: Statement of Purpose | 1 |
| PROVINCIAL PLANNING | 4 | Provincial Role | 8 |
| | | Provincial Role: Land Use Policy | 10 |
| | | Provincial Role: Related Matters Provincial-Municipal Consultation | 12 |
| REGIONAL PLANNING | 8 | Regional Planning | 13 |
| | | Regional Planning: Related Matters Halifax-Dartmouth Regional Development Plan Ministerial Amendments | 15 |
| SPECIAL DEVELOPMENT CONTROL AREA | 8 | Special Development Control Areas | 69 |
| MUNICIPAL PLANNING | 9 | Municipal Planning: The Plan, Content & Scope | 16 |
| | | Municipal Planning: Public Participation | 22 |
| | | Municipal Planning: Mandatory or Optional | 23 |
| | | Municipal Planning: Ministerial Approval | 25 |
| | | Municipal Planning: Integrating Planning and Budgeting | 27 |
| | | Municipal Planning: Financial & Professional Assistance | 29 |
| | | Municipal Planning: Related Matters | 31 |
| | | Five-Year Plan Review | |
| | | Plan Amendments | |
| | | Secondary Plans | |
| | | Background Studies | |
| | | Provincial-Municipal Consultation | |
| | | Filing in Registry of Deeds | |
| | | Land Dealings by Council | |
| | | Information | |
| | | Energy | |

| FINAL REPORT: Major Heading | Page | INTERIM REPORT: Discussion Topic | Page |
|---|---|---|---|
| | | Rural Planning | 36 |
| | | Rural Planning: Related Matters Farmland Protection and Compensation | 38 |
| PLANNING ADVISORY COMMITTEES | 17 | Planning Advisory Committees | 34 |
| | | Planning Advisory Committees: Related Matters -- Area Advisory Committees | 35 |
| ZONING BY-LAWS | 18 | Zoning By-laws | 53 |
| | | Zoning By-laws: Related Matters<br>Regulation/Policy Relationship<br>Policy Without Regulation<br>Ministerial Approval<br>Performance Standards<br>Zoning Standards & Model By-laws<br>Application to Amend/Repeal Zoning By-law<br>Notification<br>Minor Variance | 55 |
| CONTRACT ZONING & COMPREHENSIVE DEVELOPMENT DISTRICTS | 24 | Contract Zoning & Comprehensive Development Districts | 59 |
| | | Contract Zoning & Comprehensive Development Districts: Related Matters<br>Appeals | 63 |
| INJURIOUS AFFECTION | 26 | Injurious Affection | 64 |
| LANDS FOR PUBLIC PURPOSES | 27 | Zoning By-laws: Related Matters<br>Zoning Land for Public Purposes | 56 |
| DEMOLITION | 28 | Demolition Control | 106 |
| NON-CONFORMING USE | 29 | Non-Conforming Uses | 65 |
| | | Non-Conforming Uses: Related Matters<br>Construction Permit<br>Same Use Classification<br>Amortization | 67 |

| FINAL REPORT: Major Headings | Page | INTERIM REPORT: Discussion Topic | Page |
|---|---|---|---|
| INTER-MUNICIPAL PLANNING | 31 | Inter-Municipal Planning | 43 |
| DISTRICT PLANNING COMMISSIONS | 33 | District Planning Commissions | 40 |
| SUBDIVISION | 35 | Subdivision: Definition | 71 |
| | | Subdivision: Integration With Policy & Zoning | 73 |
| | | Subdivision Regulations and By-laws | 75 |
| | | Subdivision: Filing Plans | 77 |
| | | Subdivision: Tentative Plan | 78 |
| | | Subdivision: Delegation of Council's Powers | 79 |
| | | Subdivision: Appeal | 81 |
| | | Subdivision: Open Space Dedication | 82 |
| | | Subdivision: Approval of Streets, Roads | 85 |
| | | Subdivision: Integration of Departments of Health and Environment | 88 |
| | | Subdivision: Related Matters | 90 |
| | | Notification<br>Fees<br>The Approval Process<br>Certification of Plans by Professional Engineers<br>Legal Surveys<br>Nova Scotia Land Surveyors Act<br>Lots/Year<br>Approved Lot<br>Plan Amendments<br>Minor Variance<br>Exemptions<br>Department of Transportation Standards | |
| | | Liability of Development Officers | 94 |
| | | Lot Consolidation | 97 |
| PRIVATE ROADS | 42 | Subdivision: Private Roads | 86 |

| FINAL REPORT: Major Headings | Page | INTERIM REPORT: Discussion Topic | Page |
|---|---|---|---|
| PLANNING APPEALS | 43 | Provincial Planning Appeal Board | 98 |
| | | Provincial Planning Appeal Board: Related Matters<br>Composition of Board<br>Full Time or Part-time<br>Interested Person<br>Seeking Evidence<br>Notice of Appeal<br>Newspaper Notification<br>Awarding Costs<br>Best Interests of the Municipality<br>Appeal Periods<br>Conflict of Interest | 101 |
| PUBLIC PARTICIPATION AND INFORMATION | 47 | Public Participation | 1 |
| | | Public Participation: Related Matters<br>The Act<br>Publications<br>Plans and By-laws<br>Provincial Regulations<br>Decisions<br>Assistance to Community Groups<br>Attitude<br>Expectations<br>Notification<br>Notification Signs<br>Hearing Objections | 5 |
| INTER-GOVERNMENTAL ISSUES | 55 | Pits and Quarries | 39 |
| | | Inter-Municipal Planning: Related Matters<br>Inter-Municipal Disputes | 45 |
| | | Surface Water Supply Watersheds | 46 |
| | | Shopping Centres | 49 |
| | | Large Scale Developments | 51 |
| | | Shoreline Subdivision & Development | 95 |
| | | Hertiage Preservation | 105 |
| ADMINISTRATIVE AMENDMENTS | 58 | Administrative Amendments | 108 |